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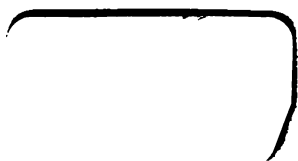
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ARTES SCIENTIA VERITAS



RERUM BRITANNICARUM MEDII ÆVI
SCRIPTORES,
OR
CHRONICLES AND MEMORIALS OF GREAT BRITAIN
AND IRELAND
DURING
THE MIDDLE AGES.

THE CHRONICLES AND MEMORIALS
OF
GREAT BRITAIN AND IRELAND
DURING THE MIDDLE AGES.

PUBLISHED BY THE AUTHORITY OF HER MAJESTY'S TREASURY, UNDER
THE DIRECTION OF THE MASTER OF THE ROLLS.

On the 26th of January 1857, the Master of the Rolls submitted to the Treasury a proposal for the publication of materials for the History of this Country from the Invasion of the Romans to the reign of Henry VIII.

The Master of the Rolls suggested that these materials should be selected for publication under competent editors without reference to periodical or chronological arrangement, without mutilation or abridgment, preference being given, in the first instance, to such materials as were most scarce and valuable.

He proposed that each chronicle or historical document to be edited should be treated in the same way as if the editor were engaged on an *Editio Princeps*; and for this purpose the most correct text should be formed from an accurate collation of the best MSS.

To render the work more generally useful, the Master of the Rolls suggested that the editor should give an account of the MSS. employed by him, of their age and their peculiarities; that he should add to the work a brief account of the life and times of the author, and any remarks necessary to explain the chronology; but no other note or comment was to be allowed, except what might be necessary to establish the correctness of the text.

The works to be published in octavo, separately, as they were finished ; the whole responsibility of the task resting upon the editors, who were to be chosen by the Master of the Rolls with the sanction of the Treasury.

The Lords of Her Majesty's Treasury, after a careful consideration of the subject, expressed their opinion in a Treasury Minute, dated February 9, 1857, that the plan recommended by the Master of the Rolls "was well calculated for the accomplishment of this important national object, in an effectual and satisfactory manner, within a reasonable time, and provided proper attention be paid to economy, in making the detailed arrangements, without unnecessary expense."

They expressed their approbation of the proposal that each Chronicle and historical document should be edited in such a manner as to represent with all possible correctness the text of each writer, derived from a collation of the best MSS., and that no notes should be added, except such as were illustrative of the various readings. They suggested, however, that the preface to each work should contain, in addition to the particulars proposed by the Master of the Rolls, a biographical account of the author, so far as authentic materials existed for that purpose, and an estimate of his historical credibility and value.

Rolls House,
December 1857.

Dear Books

OF THE REIGN OF

KING EDWARD THE THIRD.

YEAR XX: (FIRST PART.)

Dear Books

OF THE REIGN OF

KING EDWARD THE THIRD.

YEAR XX. (FIRST PART.)

EDITED AND TRANSLATED

BY

LUKE OWEN PIKE,

OF BRASENOSE COLLEGE, OXFORD, M.A., AND OF LINCOLN'S INN, BARRISTER-AT-LAW;

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INTRODUCTION.

INTRODUCTION.

THE reports in the present volume have never before been published. It may be hoped that it will appear from them, as Coke remarked, "how necessary it is to read records and pleas reported or recorded, though they were never printed. For those and the like records are *veritatis et vetustatis restigia*."¹ They are full of information of the most varied character, and the matters which occur in them might be made the subjects of almost innumerable dissertations. The book will, however, be quite sufficiently bulky without the addition of any very lengthy introduction, and the Editor's remarks have, therefore, been restricted to comments on a few cases.

The reports in this volume not previously published: Coke's opinion of such reports.

The volume contains the whole of the reports of Hilary and Easter Terms and about half of the reports of Trinity Term of the year 20 Edward III. A considerable difficulty has arisen in dividing the material which has been found into volumes of a convenient size. The reports of Michaelmas Term of this year extend, in one of the MSS., over a much greater space than those of any Terms which have hitherto been printed in the series. By placing the first half of Trinity Term here, however, and the second half with Michaelmas Term, I hope to effect the best arrangement which is possible, and so to complete the year, and fill up the gap existing in the old printed editions, in one more volume.

Division of the reports of the year 20 Edward III. into two parts, of which this is the first.

¹ Co. Litt., 293 b.

The Glossary to succeed the publication of the second part.

Practically no previous glossary or dictionary of the French language spoken in England down to the year 1362.

It will then remain (if I may be permitted to look forward so far) to produce the Glossary which was included in the original instructions relating to the Year Books. I have on many occasions mentioned the progress which was being made with it, and it has constituted a part of my work from the very first day when I took up the editorship more than a quarter of a century ago.

Though French must have been commonly spoken in England by the higher classes from a time not very long after the Norman Conquest until the middle of the reign of Edward III., there is practically no comprehensive dictionary or glossary of the language as used in this country. There is a curious "Dictionary of the Norman or Old French Language collected from such Acts of Parliament, . . . Law Books, &c., as relate to this nation," by Robert Kelham. It gives no indication of the different parts of speech. It appears to have been compiled on no definite system, and printed without any correction of the manuscript as first written, or of proofs for the press. It was published in 1779. M. Moisy's more recent *Glossaire comparatif anglo-normand* does not include Year Books, or Statutes, or Parliament Rolls among its sources.

There are glossaries to the texts of various works, too numerous to mention here, but each extending to the one particular text, and no further. The late Professor Maitland, whose premature death is a deplorable loss to all students of legal history, began "an examination of the Year Book verb . . . , and "spent some weeks in the collection of forms that "are written at full length."¹ The words thus collected extend over five pages and a half. They were, of course, only intended to serve as specimens. In some cases the infinitive is given without the other moods; in other cases there are various moods,

¹ Year Books of Edw. II. (Selden Society), Vol. I., Introd., p. liii.

tenses, and persons without the infinitive. It was not a glossary which was being attempted, but an illustration of some inconsistencies in conjugating and spelling, to be followed by some examples of the sequence of tenses.

There are many dissertations (English, French and German) on the character of the French language spoken in England. They usually indicate peculiarities which are supposed to distinguish it from the language spoken or written on the Continent. They agree, for the most part, in representing it as of an inferior quality. They commonly, however, relate to some special work, and their argument is from the particular to the general. To the French language spoken in England in its entirety, to its vocabulary and grammar as a whole, there is practically no guide.

There are dictionaries and glossaries, as well as grammars, of the Romance languages.¹ There are also glossaries limited to the *Langue d'oïl*,² which, being more specialised, throw more light upon the various dialects of French spoken north of a certain boundary. None of them will, however, be found to suffice for the interpretation of the Year Books and other French writings of English origin.

More closely associated with our subject are, perhaps, some comprehensive dictionaries of old French, which include occasional references to French works written in England. Among these may be mentioned the *Dictionnaire historique de l'ancien langage françois* (in ten volumes) of La Curne de Sainte-Palaye. The

Dissertations concerning the language.

Dictionaries of the Romance languages.

Dictionaries of the old French language Sainte Palaye.

¹ Specially worthy of mention among these are the works of Raynouard (who discovered the laws of the old French declension), and Diez. A fifth edition of Diez's *Etymologisches Wörterbuch der romanischen Sprachen* was published in 1887, with an Appendix, or *Anhang*, by August Scheler. There was also an Index to this edition, by Johann

Urban Jarnik, published in 1889.

² Among these may be mentioned the *Glossaire étymologique* which forms the third volume of Burguy's *Grammaire de la langue d'oïl*, 1853-1856. It is restricted to French dialects of the twelfth and thirteenth centuries. There is also a *Glossaire de la langue d'oïl* by Dr. A. Bos, published in 1891.

author died in the year 1781, and the work is consequently not illumined with any modern scholarship. It remained long in manuscript, and was not published in its entirety until the year 1882.¹

Godefroy's
diction-
ary: it
does not
cover the
ground of
the pro-
posed
glossary.

The most recent dictionary of the kind is the *Dictionnaire de l'ancienne langue française* by Frédéric Godefroy, of which the first volume appeared in 1880 and the tenth (the last) in 1902. It has a considerable number of references to French works written in England, including even some of the earlier volumes of Year Books of the reign of Edward I. published in the Rolls series. It also shows an acquaintance with some of our earlier statutes written in French, but not with the edition of the *Statutes of the Realm* published by the Record Commission. Naturally, perhaps, it is not always strictly correct when dealing with the technical terms used in England, as when it converts an array of jurors (*Arraie*) into a judicial decision. It contains, moreover, at once too much and too little for the student of English law and history. Etymology is excluded from it, but it embraces all the French dialects, and the period from the ninth century to the fifteenth. Its vocabulary is, perhaps, all that is needed for the French which was spoken before and shortly after the Conquest. It does not, however, include sufficient details of the speech actually used in England in later years.

Illustra-
tions.

Suppose, for instance, that anyone wishing to study his author at first hand, in the original language, met with the word *conisast*. He would look for it in vain in any of the works mentioned above. In the glossary now in course of preparation

¹ It is a work of great erudition, but the value which it possessed when it was written diminished, of course, with the advance of knowledge. See the *compte rendu* of it by M. Paul Meyer in *Romania*,

Vol. IV., p. 278; M. Léopold Favre's reply entitled "*Le Glossaire de La Curie de Sainte Palaye et M. Paul Meyer*"; and M. Paul Meyer's final remarks in *Romania*, Vol. IV. p. 492.

he would find it with a reference to the infinitive *Conustre*. Under *Conustre* the various meanings of the verb are stated, together with the various forms of the moods, tenses, and persons, and the word *conisast* among them. There are many instances in which a word may belong to more verbs than one. *Veie*, for example, may be the third person singular of the present subjunctive of *Veer*, *Veier*, &c., (to see); it may also be the past participle of *Veier*, *Vier*, &c. (to deny or forbid). In each case a reference will be given to the infinitive of both verbs. Laxity of spelling in the manuscripts is a cause of innumerable pitfalls, and one of the objects of the glossary will be to save the student from some, at any rate, of the risks of falling into them. Some further remarks on the principles on which it is being constructed will be found in the Introduction to a previous volume.¹ There is reason to believe that it will not exceed a moderate compass.

The manuscripts which have been used to establish the text of the present volume are the Lincoln's Inn MS., the Harleian MS. No. 741 in the British Museum, and the MS. in the University Library at Cambridge numbered Hh. 2, 3, all of which have been described in the Introductions to previous volumes. With them has been collated a transcript which there is reason to believe was made by or for the late Mr. A. J. Horwood from a MS. formerly belonging to the late Sir Charles Isham, on which he reported to the Historical Manuscripts Commission.²

Sir Charles Isham's MS. is described in the Preface to the volume of Year Books containing reports of cases from Hilary Term 11 Edward III. to Trinity Term 12 Edward III.³ It was seen by me in the

Manuscripts used to establish the text of the present volume.

Disappearance of the Isham MS.: a transcript used

¹ Y.B., Easter and Trinity, 18 Edw. III., Introd., pp. lxxxix-xc.

² Third Report of the Historical

Manuscripts Commission, Appendix, p. 252.

³ pp. xiii-xv.

Public Record Office before that volume was published in the year 1883, but what has since become of it I have tried in vain to discover. I am informed by the Secretary that it remained in the Record Office until the 27th of September, 1887, when it was delivered to Sir Charles Isham's agent. It is, however, no longer in the library at Lamport, and Sir Vere Isham tells me that many of the most valuable documents were sold by Sir Charles. I have enquired in various directions but have been unable to trace the MS. further.

The transcript which I have mentioned could not have been made from the Lincoln's Inn MS., the Harleian, or the Cambridge MS. of the reports of the year 20 Edward III., as it differs from all of them. It must therefore have been made either from the Isham MS. or from some other MS. of which nothing is known. It has been of some service, though the original cannot have been quite the best of the MSS. I have referred to it as "I."

The reports of Hilary Term are in the same form in all the MSS. in which they occur. They are evidently all from a common source, and present only the usual variations of reading or clerical errors and omissions. From Easter Term, however, to the end of the year there are two sets of reports, one of which is found in the Lincoln's Inn and Cambridge MSS., the other in the Harleian MS. and in that which I have called the Isham transcript. In many instances there are thus two independent reports of the same case; in some instances there are cases in one pair of manuscripts which are not found in the other pair.

The corresponding records compared with the reports.

The reports found in the manuscripts have, as usual, been compared with the corresponding records. The system on which the comparison has been made, the manner in which the records have been used when found, and the difficulties attending the search have been explained in the volume of Year

Books (Rolls edition) containing the reports of Easter and Trinity Terms 18 Edward III.¹

As in all previous volumes edited by me, every case which occurs in Fitzherbert's *Abridgment* has been traced and noted. The printed *Liber Assisarum* has also been carefully searched, but does not appear to contain any of the cases which are in the present volume.

References
to Fitz-
herbert's
*Abridg-
ment*.

Reports of cases in the Exchequer of Pleas are of somewhat rare occurrence in the Year Books. There are, however, two in the present volume. In the first² it appears that one Barton was a prisoner in the Fleet prison, as the King's debtor for the balance of his account touching wools bought of the King. The wools were part of a certain number of sacks granted to the King in the fifteenth year of his reign. In respect of a hundred and six sacks, three quarters, five stones, and ten pounds and a half of the wools with which he was charged he appeared in the Exchequer, in the custody of the Warden of the Fleet, and gave the Court to understand that one "Guillelmus Pouche" or "Ponche," who was a prisoner in the Tower of London, owed him £241 13s. This "Guillelmus" is mentioned elsewhere in the records, and seems to have been an Italian merchant. "Guillelmus" is probably the form in which English scribes presented in Latin the Italian Guglielmo. An Englishman named William would have appeared as "Willelmus." "Pouche" or "Ponche" can hardly be the original Italian form. "Pucei" and "Ponci" are well-known Italian names, and one or other of them may have been written phonetically. Be that as it may, the name in the record looks more like Pouche than

Reports of
cases in
the Ex-
chequer of
Pleas: the
King's
debtor
and the
Queen's
attorney.

¹ *Introd.*, pp. xviii-xxxiv.

| ² Hilary Term, No. 4, pp. 16-21.

anything else, and, after the above words of caution, he may, perhaps, for want of certainty, be called by it.

Barton prayed that Pouche might appear and answer to the King in respect of the £241 13s., in part payment of his own debt, *juxta prerogativam Regis in hac parte*. A precept thereupon issued to the Constable of the Tower to cause Pouche to come and answer to the King in respect of that amount.

Pouche accordingly appeared in custody of the Lieutenant of the Constable of the Tower. Barton then said that he had bought of the King the one hundred and six sacks, &c., of wool for a certain sum of money, and the wools had been delivered to him by virtue of the King's writ under the great seal, in accordance with the form of the covenants agreed between him and the King, and that he was charged to the King for the same wools, as appeared in the remembrances of the Exchequer. Afterwards, the same wools were assigned to Queen Philippa, the King's Consort, in accordance with certain terms agreed between Barton and Pouche, who was the Queen's attorney for that purpose. The agreement was that Barton should have the wools by grant from the Queen, in virtue of the assignment made to her, for £641 13s. Of this sum Pouche received £241 13s. at certain stated times and places. Barton therefore prayed that, as he was still charged to the King with the entirety of the said wools, Pouche might answer to the King for the £241 13s. received by him, in part payment of Barton's debt. That Pouche owed that amount, for the cause aforesaid, he was ready to verify in any way the Court might direct.

Wager of law proffered as to the facts, but not allowed. Pouche thereupon proffered the wager of law that he did not owe the £241 13s., or any part of it, by reason of the said contract relating to the wools.

Barton, on behalf of the King and himself, counter-pleaded the wager of law. He said that he had tendered an averment, on behalf of the King and of himself, to the effect that Pouche had received the money in the manner alleged, that the contract and receipt lay within the cognisance of the country, and could be verified by the country, that Pouche alleged nothing on his own behalf, but only proffered the wager of law that he did not owe the money, and that this issue of a plea affecting the King ought not in this case to be admitted in this Court against the King. Barton therefore prayed judgment.

Pouche replied that Barton had not produced any specialty to show the contract and the payment of the money, that Pouche had himself proffered the wager of law that he did not owe the money by reason of the said contract, and that this issue was admissible according to the common law in such a case, because the King could not have an action independently of Barton. He therefore prayed judgment. Barton joined issue on the point of law; and the Court adjourned to consider its decision.

The wager of law was held to be inadmissible. On the re-appearance of the parties in Court, Pouche, according to the report, tendered an averment to the country that he did not owe anything to the defendant. This, however, could not be admitted after the proffer of the wager of law. Subsequent tender of averment to the country as to the same facts not allowed.

According to the record judgment was given that the King should recover against Pouche the £241 13s. in part payment of Barton's debt, and that Pouche, who had been removed from the Tower to the Fleet prison by the King's command, should remain there until he had made satisfaction. Judgment in favour of the King's debtor.

The case illustrates both the Exchequer practice, and the doctrine which prevailed with regard to the

wager of law. In an action of Debt brought in the Common Bench simply by one subject against another the wager of law would certainly have been allowed in the absence of any specialty, and where there was nothing in support of the claim but the plaintiff's word. This was, no doubt, the reason for the hesitation of the Barons of the Exchequer, and for their adjournment to consider the point. The dispute was, however, not merely one between party and party, but one in which the King might be a loser, if the wager of law should be successful, and the King's debtor failed to have allowance of that which he alleged to be owing to him. Therefore judgment was given in favour of the King's debtor with regard to the proffered wager of law, and this had the effect of final judgment against the person who owed him money. It seems, however, that if the latter had at once put himself upon the country instead of tendering the wager of law, the issue would have been tried by a jury.

Privilege
of the Ex-
chequer.

The second case in the Exchequer of Pleas¹ is one relating to the privilege of the Exchequer. It was claimed by the Barons of the Exchequer that, according to the "*leges speciales, consuetudines, et statuta Scaccarii*" beginning in the time of William the Conqueror, the officers of the Exchequer had been accustomed to plead and be impleaded therein, without question, in respect of all torts and trespasses with which they were concerned as plaintiffs or defendants.² These *statuta* are not to be confounded with *Les Estatuz del Eschekere* assigned to the 51st year of the reign of Henry III. in Ruffhead's edition of the Statutes, and described as *temporis incerti* in the Statutes of the Realm, but were alleged

¹ Easter Term, No. 24, p. 202.

² L.T.R. Remembrance Roll, Communia, Hil., 11 Edw. III., *Adhuc recorda*, collated with the

corresponding entry on the K.R. Remembrance Roll, and printed Y.B., Easter-Trin., 14 Edw. III., Introd., pp. xxiv-xxv.

regulations established in the Exchequer for the Exchequer. They were, without doubt, recognised in the time of Edward III., but they could hardly have existed in the time of the Conqueror, as the Exchequer was not known by that name before the reign of Henry I.

In the case now under consideration an action of Trespass was brought by one who is described in the report as "*un radlet dun des Barons*," and in the record as "*vallettus Alani de Esshe, Baronis hujus Scaccarii*," against the Abbot of Glastonbury and another. A *valet*, *radlet*, or *vallettus* appears to have been, at this time, a young unmarried man who was in rank below a knight, but how much below is not certain. The usual translation is "yeoman," but the word "yeoman" itself is used in more senses than one. The *valet*, *vallettus*, or *radlet* appears to have had at one time nearly or quite the same meaning as *damoiseau*, a young gentleman, just as *damoiselle* is a young lady. A *vallettus* might be the King's ward.¹

Exception was taken to the writ on the ground that there were no pledges (or sureties) to prosecute, but this was over-ruled because it was the custom of the Court that no pledges to prosecute should be found for the Barons or their servants. But, said Counsel for the defendants, the writ supposes the plaintiff to be the "*radlet*" of one of the Barons; and he might be the Baron's "*radlet*," and not his servant; "and you ought not to hold plea "in this Court, unless he is a servant of the Baron's household, and, inasmuch as the writ does not "make him the Baron's servant, judgment." Then Counsel for the plaintiff said:—"We suppose that "he is the Baron's '*radlet*,' which will be understood to be the Baron's servant, unless the reverse "is pleaded; and inasmuch as you do not deny it, "and allege nothing else in fact which would disprove "our action, judgment."

¹ Bract. 116, b.

The "rad- The Court then caused to be read the "statute" let" one relating to the privilege. It purported that King of the Henry III. had granted to the Barons that tres- "hommes" passes committed against them and "their men" of the Baron, and privileged. (*four hommes*) should be determined in the Exchequer before them. The defendants were therefore put to answer over, and pleaded the general issue, "Not "Guilty."

Thus the maintenance of the privilege did not depend upon the question whether the plaintiff was the Baron's servant or not, but upon the question whether he was the plaintiff's man or not. This was a very different thing, for everyone who did homage to his superior lord for his lands described himself as that lord's man, and there was no knight in the realm who was not the King's man, or immediately the man of the lord of whom he held.

The Bishop of Norwich and the Abbot of Bury St. Edmund's. One of the cases¹ relates to a chronic dispute between the Bishop of Norwich and the Abbot of Bury St. Edmund's, and shows, at the same time, how the Church attempted to evade the authority of the King's Court. The Abbot had long claimed to be exempt from the rule of the Bishop by reason of certain early charters, and of a *decretum* in the Court of William the Conqueror. The reason assigned for the exemption was that the body of St. Edmund, the glorious King and Martyr, lay buried in the Abbey.²

Contempt: excom- In Easter Term, 1346, a writ of Contempt was muni- brought against the Bishop's Commissaries by the cation of the King and one Richard Freiselle. It was alleged that King's messenger a writ of Prohibition, as well as another writ, had by the Bishop's Commis- been entrusted to Freiselle for delivery to the Bishop series.

Easter, No. 27 (pp. 214-232).

² *Placita coram Rege*, Mich., 19 Edw. III., R° 114.

or his commissary, that he did deliver them, by the King's command, to the Bishop, and that the commissaries for that reason excommunicated him. By these writs the Bishop was forbidden to do or attempt anything to the prejudice of the franchises or privileges granted by the King or his ancestors to the monastery (and accepted and confirmed by Popes), or in prejudice of the King and his crown, and if anything of the kind had been done, the Bishop was to annul and revoke it.

The defence of the commissaries was that Freiselle had been excommunicated, and was therefore not in a condition to be answered, and the Bishop's letters patent were produced to the effect that Freiselle was under sentence of greater excommunication. On behalf of the King it was naturally contended that this excommunication of Freiselle was the very contempt for which the action was brought. The Court held that this must be understood to be the fact, unless it was definitely pleaded that the excommunication was in relation to some other matter.

There were then produced, on behalf of the commissaries, letters patent of the Archbishop of Canterbury purporting that he had found among the acts of the Court of Arches that Richard Freiselle was under sentence of greater excommunication on account of his manifest contumacies, and the manifold offences committed by him. Again it was contended on behalf of the King that the excommunication must be understood to be that in respect of which the action was taken, as there was no other special cause mentioned by the Archbishop. The Court again held that this must be so, and put the commissaries to answer.

The Church, however, was not yet at the end of its resources. It was pleaded on behalf of the commissaries that the Court of Common Pleas had no jurisdiction with regard to the cause of excommunication, which could be tried only in an ecclesiastical court, and not in a lay court. On

Judgment
against
the Com-
missaries.

behalf of the King it was urged that the writ was sued by reason of the excommunication pronounced against Freiselle, and that the action could not, according to the law of the land, be prosecuted anywhere but in the King's Court. The commissaries were then asked by the Court whether they had anything else to say, and they answered that they could say nothing more than they had already said. Judgment was therefore given that the commissaries should be taken, and that Freiselle should recover his damages against them.

Stay of
execution
followed
by writ to
proceed.

It was, however, one thing to have judgment and quite another thing to have execution, where the Church was concerned. On the following 20th of May the King's writ close was directed to the Justices of the Common Bench to stay execution until the next Michaelmas Term, so far as the *Capias* against the commissaries was concerned; and the assessment of Freiselle's damages was deferred until the same time. This was, however, followed by a writ to proceed, and Freiselle was allowed execution of the damages claimed in his declaration, which were no less than £1,000.

Writ of
Error,
followed
by writ
under the
privy seal
to hasten
execution.

It was hardly to be expected that the Bishop and his commissaries would tamely submit to this. In Easter Term in the 21st year of the reign there was a writ of Error directing that the record and process were to be sent into the King's Bench, and they were sent accordingly. Then, however, a strange thing happened. After all the manœuvring and counter-manœuvring which had evidently been going on outside the courts, the commissaries, and the Bishop, and the Church were finally worsted. It appears on the plea roll of the Common Bench that "after this enrolment [as to sending the record and "process into the King's Bench] had been made, the "Lord the King sent to his Justices here [in the "Common Bench] his letters under his privy seal "in these words:—'Edward, by the grace of God,

“ King of England and of France, and Lord of
 “ Ireland, to our well-beloved and trusty John de
 “ Stonore and his fellows, Justices of our Common
 “ Bench, greeting. Heretofore we commanded, and
 “ again we command you that you cause to be fully
 “ and quickly carried out the judgment given by you
 “ in our Common Bench against William, Bishop of
 “ Norwich, and his commissaries, on the prosecution
 “ of our well-beloved and trusty Richard Freiselle, for
 “ that he excommunicated the said Richard, in con-
 “ tempt of us, because he delivered certain writs of
 “ Prohibition under our seal to the said Bishop, and
 “ that you make due execution thereof without delay,
 “ according to the law and custom of our realm, with-
 “ out having regard to the prayer, favour, or mainten-
 “ ance of any person, and this omit not as you wish
 “ to escape our indignation. Given under our privy
 “ seal the sixteenth day of April. And I send these
 “ to you that you may cause to be done in the matter
 “ aforesaid that which of right ought to be done.”

This case is an illustration of the struggle which was now going on between the King and the nation on the one hand, and the Pope and the Church on the other. Like the Statute of Provisors² which followed a few years afterwards it was a victory for the King and the nation. As the counsel for the King is represented to have said in one of the reports :—“ We understand that everyone, be he Bishop or anyone else, who is the King’s liege, ought to be obedient to the King’s command,” and so, in the end, the Bishop had to be.

There is another church case¹ in which we find the Pope in opposition both to the King and to an English Abbot. The King’s presentee to a church, one Richard de Skarles, had been duly admitted and instituted by the Bishop of the diocese. A provision

The struggle of the King with the Pope.

Papal provisions, and citations to Rome.

¹ Trin., No. 16 (pp. 522-526).

² 25 Edw. III., St. 4 (*Statutes of the Realm*).

had, however, been made by the Court of Rome, in respect of the same church, to one Roger de Maners, who sued against Skarles in that Court. Skarles was thereupon cited to appear there to show cause why he had held the church, contrary to the provision. The Abbot of Ramsey, to whom the patronage of the church belonged, was also cited. The King sent a writ of Prohibition to Maners directing him not to intermeddle further in the matter. Maners disregarded the prohibition. A new citation came to Skarles. The Abbot also was again cited to appear at the Court of Rome to answer why he had acknowledged that the presentation on the particular voidance belonged to the King when (as was alleged on behalf of the Pope) it belonged to the Abbot, and had so nullified the papal provision. An Attachment on Prohibition was brought against Maners, who pleaded Not Guilty, and denied that the Prohibition had been delivered to him. A discussion then arose as to whether Maners could be allowed to be out on mainprise. After consideration he was let out until the time of trial, but the Court said that, if he in the meantime made any appeals or citations to Rome, the mainperners would be held to ransom at the King's will, without being allowed to pay a fine as in respect of a common mainprise, and that, too, even though they brought in the defendant's body on the appointed day.

Effect of
excom-
muni-
cation of a
layman
who had
no support
from the
King.

In another case, in which no dignitary of the Church was concerned, and the struggle was between the Church and an ordinary layman, the result was very different. There it was shown that excommunication might prove a fatal weapon. Thus an action was brought by a layman against a parson and a chaplain for prosecuting in Court Christian a plea touching chattels which did not concern either matrimony or testament, and against the Judge of the Court for holding the plea contrary to the King's Prohibition. After lengthy proceedings, wager of law was joined on certain matters, and issue to

a jury on others. On the appearance of the parties on the day given the defendants alleged that the plaintiff had been excommunicated, and therefore ought not to be answered. The letters of the Bishop of Lincoln in witness of the fact were produced, and the case was put *sine die*.¹

The manner of joining the wager of battle on a writ of Right, and all the details preceding the actual combat on a given day are found in Trinity Term.² It seems that after the champion on each side had been brought into court he placed a penny in each finger of a glove or gauntlet, including the thumb. The gloves were thrown down and accepted by the Court. The demandant and the tenant had to find pledges that the battle would be carried out, and that neither of the champions would injure or molest the other either secretly or openly. The gloves were then returned to the champions—to each his own. The five pennies remained in each glove, and were to be afterwards offered in honour of the Saviour's five wounds, so that God might allow the victory to be given to the champion who had right on his side.³ Though all the preliminaries were completed in Trinity Term, the parties were not to appear again until the morrow of All Souls, or third of November. In the meantime the principals were to keep a strict watch over their respective champions. There appears to have been some slight difference in the arrangement of the details from time to time,⁴ but battle was the usual mode of trial on a writ of Right unless the parties put themselves on the Grand Assise.

Mode of
joining
the wager
of battle
on a writ
of Right.

¹ Easter Term, No. 40, pp. 300-306, and 307, note 2.

² Trin., No. 5 (pp. 482-486).

³ See Y.B., Mich., 30 Edw. III., fo. 20.

⁴ There is a reference towards the end of the report to proceedings in the Northamptonshire Eyre (3

Edward III.) in relation to the oath of the champions. Those proceedings are not reported in the printed Year Books, though they were in the missing Isham MS., and there are a few short notices of them in Fitzherbert's *Abridgment*.

Wager of
battle
where
a citizen
of London
sued an
Appeal of
Robbery.

A much more unusual case¹ occurred when a citizen of London sued an Appeal of Robbery and said that if the defendant would deny the robbery he was ready to deraign (or prove) it by his body, and the defendant thereupon waged battle. The appellor, however, finding himself taken at his word, appears to have come to the conclusion that the better part of valour is discretion. He took refuge in the franchise or privilege enjoyed by the citizens of London that battle should never be waged against any one of them in relation to a felony, wheresoever it might have been supposed to be committed. The appellee, however, demanded judgment in his favour on the ground that the appellor had tendered deraignment by his body, and the appellee had accepted it, and the appellor now declined that issue of the plea. It was argued by counsel that the tender of deraignment by the body was merely a formal expression, and that the party could afterwards say that he would not join the wager of battle because he was a citizen of London. The appellor, however, went out to imparl, and, having apparently recovered his courage outside the Court, joined the wager of battle when he came back.

Interven-
tion of the
citizens of
London to
preserve
their
franchise.

Then, it seems, the citizens of London as a body intervened, and urged that, although the plaintiff had put himself upon trial by battle, they did not understand that, as he was one of the citizens, the Court would admit him to do so to the prejudice of their franchise. The Court appears to have been in doubt as to what ought to be done. It took time to consider, but its decision is not stated.

¹ Easter, No. 4 (pp. 134-136).

We have a picture of a mediæval market-town and its privileges in the two reports and record of a case of Replevin.¹ The plaintiff was one William Mirresone, a burgess of the town of Preston, and he alleged that the defendants had, at a certain place called the "market-stead," in the town of Lancaster, taken two cloaks belonging to him. The defendants said that they had acted as burgesses and bailiffs of the town of Lancaster, that the plaintiff had come on a market-day (Saturday), which the Provost and Burgesses had by prescription, and exposed two bales of cloth for sale in the market-stead, that they had demanded the toll of a halfpenny for each bale, which the plaintiff refused to pay, and for that reason they took the cloaks. The plaintiff pleaded that on a *Quo Warranto* before Justices in Eyre, in the reign of Edward I., the bailiffs and community of the town of Lancaster had claimed certain franchises, including the market, as included in a charter from King John, who had granted them all the franchises which the burgesses of Northampton then had. The Justices had given judgment that as the franchises were not expressly granted by the charter, and no title of prescription could be affirmed, the franchises were to be seized into the King's hand. Therefore said the plaintiff the burgesses could not be admitted to say that they had the franchises by prescription, contrary to the tenour of the record. The replication was that the defendants had not now a day in Court to claim or try any franchises, and as the plaintiff had not denied that they had a market on Saturday, or that the taking had been for the cause alleged, they therefore prayed judgment and the return of the cloaks. The Court adjourned for consideration, but in the end gave judgment for the defendants almost in the terms of their replication.

¹ Easter, No. 62 (pp. 390 398)

Responsi-
bility of
Sheriff
where an
outlaw
had been
taken and
rescued on
his way to
Court.

The unpleasant responsibility of Sheriffs is shown in a case in which an outlaw escaped.¹ In return to a writ of *Capias utlagatum* a Sheriff returned that he had taken the outlaw, and had sent him towards the Court by two of his officers. On the way, however, a rescue was effected, and the outlaw was taken from the Sheriff's officers by force. The unfortunate Sheriff was amerced because the Court held that it could not be understood that such a rescue could be effected in time of peace. The Sheriff was responsible for the body of the outlaw, and ought to have sent it to the Court in sufficient custody at his peril. It was added, for the comfort of the Sheriff, that he could have an action against the rescuers.

Duties of
knights in
relation to
a person
essoined
*de malo
lecti*.

The functions which had sometimes to be performed by knights were multifarious. If a party in an action cast an *essio de malo lecti*, that is to say, to the effect that he was confined to his bed by sickness and for that reason could not appear, the Court sent four knights to view the person. They had to report whether he was sick or not, and, if he was sick, to diagnose and state the nature of the malady. If he was found to be not sick, the *essoins* was turned into a default, but, if he really was sick, he was allowed a year and a day from the day of the view by the knights before appearance in Court.²

Power of
a Justice
of *Nisi
prius* to
amend his
record.

It appears in one case³ that the *Postea*, or verdict of a jury at *Nisi prius*, could be amended by the Justice before whom it was taken, after he had returned it into the Common Bench. It was, indeed, asserted by counsel that a Justice of *Nisi prius* could not amend his record in respect of matter which was of the substance of the verdict. But Willoughby, J., said:—"Certainly, if his return is

¹ Easter, No. 78 (p. 448).

² Easter, No. 42 (pp. 316-318).

³ Easter, No. 65 (pp. 402-404).

"not sufficiently full, he can amend it well enough, "and that we have often seen." Kelshulle, the Justice of *Nisi prius*, was accordingly permitted to make an addition to the verdict as originally returned.

The constitution of juries and assises, and the meaning of the common words *electi*, *triati*, *et jurati* are illustrated by a case in Trinity Term.¹ Mode of "trial" of persons em-panelled, so as to obtain a good jury. It was an Assise of Darrein Presentment. Three triers, presumably included in the original panel, were sworn, and another man was challenged. The three could not agree with regard to the man who was challenged, two of them being of one opinion, and the third of the contrary opinion. The Justices would not accept the opinion of the majority of two who were in agreement, but caused two other men who had been challenged, one by the plaintiff and the other by the defendant, to be triers together with the first three. The whole five were then charged with regard to the man first mentioned as having been challenged. Three of them were of one opinion, and the other two of the contrary opinion. Again the Justices declined to accept the opinion of the majority, and the whole five were required to remain in one room, without food or drink, until they agreed. On the next day they came to an agreement, and rejected the man who had first been challenged, as well as all the others who were included in the panel. Then, it seems, the original three triers tried the challenges of the two who had been joined with them to try the challenge of the first. The three thereupon rejected the two. Out of these three one was tried by the two others, and accepted as a good juror. He was associated with one of the remaining two to try the third, who was accepted. The last of the three was tried by the two who had been tried and accepted as good

¹ No. 8 (pp. 486-492). Cf. Co. Litt., 158.

jurors, and he was rejected. The two who had by this curious process been tried and accepted as good jurors were then sworn to try the principal matter. A writ was afterwards sent to the Sheriff to cause to come, in addition to the two, *duodecim tales* to try the issue in the cause.

There is a second but somewhat confused report of this case, in which the numbers differ, four instead of three being given as the number of triers first sworn, and three instead of two as the number of those who stood as good jurors after the trial of the jurors was ended. It makes two out of the four original triers to be rejected, and after their rejection to be associated with a third person to try the other two, who were accepted. "And so note," it says, "that after they had been withdrawn or rejected the two triers could say whether their companions had taken bribes." According to the first report, it will be observed, the matter was so managed that no one who had been rejected as a juror (though he might have been challenged) became a trier.

I have again the pleasure of offering my best thanks to the Benchers of the Honourable Society of Lincoln's Inn for the loan of their most valuable manuscript.

L. OWEN PIKE.

Lincoln's Inn,
21st March, 1908.

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THE CHANCELLOR, JUSTICES OF THE TWO
BENCHES, TREASURER, AND BARONS OF
THE EXCHEQUER, DURING THE PERIOD
OF THE REPORTS.

Chancellor.

John de Offord.

Justices of the Court of King's Bench.

Sir William Scot, Chief Justice.

Sir Roger de Baukwell.

Sir William Basset.

Sir William de Thorpe.

Justices of the Court of Common Pleas.¹

Sir John de Stonore, Chief Justice.

Sir William de Shareshulle, or Sharshulle.²

Sir Roger Hillary.

Sir Richard de Kelleshulle, or Kelshulle.

Sir Richard de Wylughby, or Willoughby.

Sir John de Stouford.³

Treasurer.

William de Edyngton.

Barons of the Exchequer.

Sir Robert de Sadington, Chief Baron.⁴

Sir William de Broclesby.

Sir Gervase de Wilford.

Sir Alan de Asshe.

¹ As ascertained from the Feet of Fines of the three Terms.

² Appointed Second Justice, 10 Nov., 1345, *Rot. Lit. Pat.* 19 Edw. III., p. 2, m. 2.

³ Stouford's changes of position are curious, and somewhat difficult to follow. His name appears among those of the Justices of the Common Bench as early as Hilary Term, 19 Edw. III. There are Letters Patent appointing him to the office on the 25th of May in the same year (1345). He was Chief Baron of the Exchequer from the 10th of November to the

8th of December, 1346. In Hilary Term, 20 Edw. III. (1346), he reappears on the Plea Rolls of the Common Bench as one of the Counsel or "*Narratores*" receiving chirographs of Fines, but he also appears in the Feet of Fines of the same Term as one of the Justices. There must have been a very short period during that Term in which he ceased to act as a Judge, and resumed his practice as counsel, before returning to the Bench.

⁴ Appointed Chief Baron, 8 December, 1345, *Rot. Lit. Pat.* 19 Edw. III., p. 2, m. 2.

NAMES OF THE "NARRATOIRES," COUNTORS, OR
COUNSEL.¹

Richard de Birton.
Roger de Blaykestone
Adam Bret.
Hamo Derworthy.
John de Gaynesford.
Henry Grene.
John de Haveryngton.
John de Moubray.
Henry de Mutlow.
William Notton.
Richard de la Pole.
Peter de Richemunde.
John de la Rokel, or Rokele.
Hugh de Sadelyngstanes.
Thomas de Seton.
William de Skipwith.
John de Stouford.²
Robert de Thorpe.

¹ Mentioned in the Plea Rolls of the Common Bench as receiving chirographs of Fines. The fact that the counsel mentioned in the reports could be identified with the "narratores" mentioned in the rolls was discovered through the

minute inspection of the rolls which was necessary for my proposed calendar of them. See the Vol. of Y.B., 16 Edw. III., Part 2 (published in 1900), p. xi.

² See note 3, p. xliii.

CORRECTIONS.

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- Page 86, note 2, for "Crompton" read "Compton."
 „ 115, margin, after "Dowere" add "[Fitz., *Jugement*, 176.]"
 „ 118, line 27, for "ession" read "essoïn."
 „ 251, notes, col. 2, line 3, for "judicum" read "judiciũ."
 „ 307, note 2, for "Lincolniensii" read "Lincolniensis."
 „ 334, note 1, for "and 5" read "and 4."
 „ 892, line 25, for "seised" read "seized."
 „ 894, line 5, for "seised" read "seized."
 „ 419, note 4, for "116" read "100."
 „ 492, line 22, for "a" read "the"; and for "had" read "had
 not."
 „ 493, line 18, for "par" read "pas."
 „ 521, note 1, line 17, for "prædicta" read "prædictæ."
 „ 573, note 2, line 7, for "armi" read "armis."
 „ 593, col. 1, line 10, for "64" read "66."
 „ 627, col. 2, line 26, for "de" read "le."

In the volume next preceding (Easter—Michaelmas,
 19 Edward III.).

Page xxxvii, line 12 } for "Eleanor" read "Isabella."
 „ xl, line 85 }

HILARY TERM
IN THE
TWENTIETH YEAR OF THE REIGN OF
KING EDWARD THE THIRD
AFTER THE CONQUEST.

HILARY TERM IN THE TWENTIETH YEAR OF THE
REIGN OF KING EDWARD THE THIRD AFTER
THE CONQUEST.

No. 1.

A.D.
1345-6
*Quid juris
clamat.*

(1.) § A *Quid juris clamat* was sued against two persons.—*Thorpe*, for one of them, said that she had nothing then, and had nothing on the day of the note of the fine. And as to the other he said that the person who was named with him in the writ was seised of the same tenements before the day of the note, and was so seised by virtue of a gift made to her and her husband in frankmarriage, and that her husband died without issue, and that she leased her estate to him, and he said by way of protestation, in order to save his estate, that the donor had released all right to him, and (said *Thorpe*) we do not understand that upon such a note he shall be put to claim.—*Moubray*. His plea is double, one that one of the persons named in the writ has nothing, the other that the other person named claims the fee.—*Thorpe*. As to the claim of the fee, we do not use that by way of answer, but inasmuch as the note supposes that the two held for their lives on the day of the note, we falsify that supposition by showing that one of them had nothing.—*Seton*. And, inasmuch as you take that for your plea, it seems that you say nothing on behalf of the one who is tenant as a reason why he ought not to attorn; for, in former times, when a tenant for term of life leased his estate to another by fine, the reversion was granted after the death of both, and so, though the reversion be granted after the death of both,

DE TERMINO HILLARII ANNO REGNI REGIS
EDWARDI TERTII A CONQUESTU VICESIMO.¹

No. 1.

(1.)² § *Quid juris clamat* suy vers³ deux.—*Thorpe*, A.D. 1345-6.
pur lun, dit qil navoit riens, ne avoit⁴ jour de la *Quid juris clamat.*
note, &c. Et quant al autre il dit qe celui qe fuit *[Fitz., Quid juris clamat,*
nome ovesqe luy fuit seisi de mesmes les tenements *30.]*
devant la note, et ceo par doun fait a luy et son
baroun en frank mariage, et son baroun murust⁵ saunz
issue, et ele lessa son estat a luy, et, pur protesta-
cion, de soun estat sauver, dit qe le donour avoit
relesse a luy tut son dreit, et nentendoms pas qe
sur tiel note⁶ il serra⁷ mys de clamer.—*Moubray*.
Son plee est double, un qe lun des nomes nad riens,
autre qe lautre cleyme fee.—*Thorpe*. Quant a clamer
de fee,⁸ nous lusoms pas⁹ pur respons, mes de ceo
qe la¹⁰ note suppose qe les deux tiendrount a lour
vies jour de la note, cella fauxoms nous par tant qe
lun navoit rienz.—*Setone*. Et puis qe vous pernetz
cella pur le plee, si semble il qe vous¹¹ ditetz rienz
pur celui qest tenant pur quey il ne¹² deit attourner;
qar, devant ces heures, ou tenant a terme de vie lessa
soun estat a autre par fyne, homme graunta la
reversion apres le decees de touz deux, et auxint,
tut soit reversion graunte apres le decees de deux,

¹ The reports of this Term are from the Lincoln's Inn MS. (called L.), the Harleian MS., No. 741 (called H.), the MS. in the University Library at Cambridge Hh. 2, 3 (called C.), and the Isham transcript (called I).

² From the four MS., as above.

³ C., devers.

⁴ I., ne navoit.

⁵ C., mort.

⁶ I., title.

⁷ C., serreit.

⁸ The words de fee are omitted from C.

⁹ pas is omitted from I.

¹⁰ C., le.

¹¹ vous is omitted from C.

¹² ne is omitted from I.

No. 2.

A.D.
1345-6.

even though it be the fact that one has nothing, the note is not thereby avoided, and consequently let him who is tenant show some cause wherefore he ought not to attourn.—SHARSHULLE. Then is it the fact that one of them has nothing, and had nothing on the day on which the note of the fine was levied?—*Moubray*. We have no need to answer.—HILLARY. By his answer he has falsified the note. Will you maintain it, or not?—*Seton*, seeing the opinion of the Court, tendered the averment that they held jointly as the note supposes; ready, &c.—And the other side said the contrary.—*Skipwith*. Now we pray that the defendants may appoint an attorney, for they will not attorn upon this note, because a fee is claimed, &c.—HILLARY. This claim is not taken for a plea, and therefore, if it be found against them, they will attorn.—And therefore they were not admitted to appoint an attorney.

Annuity

(2.) § Annuity¹ for William de Edyngton, Master of the House of St. Cross by Winchester, against a parson who had aid of the King, as appears above. And now the King sent a writ *de procedendo*.—*Sadelyngstanes*. Since the last continuance the plaintiff has been elected and confirmed Bishop of Winchester, and so in virtue of that name of dignity he has lost every other official name, and so he has abated his own writ; judgment of the writ.—*Birton*. And since you do not allege that he is Bishop by creation, so that even if it were as you say, which we do not admit, he still remains Master, &c., as before, and since you do not say anything else, we demand judgment.—SHARSHULLE and HILLARY to

¹ The report is in continuation of Y.B., Mich., 19 Edw. III., No. 30, p. 360, where the record (*Placita de Banco*, Mich., 19 Edw. III., R^o

359 d.) is cited. The defendant was John Mouner, parson of the church of Stockton (Wilts).

No. 2.

tut soit il¹ issi qe lun nad rienz, la note nest pas par taunt voide, et, *per consequens*, celui qest tenant die rienz pur quei il ne² deit attourner.—SCHAR. Donques est il issint qe lun nad rienz, ne navoit³ jour de la note leve?—Moubray. Nous navoms meister a respondre.—HILLARY. Par son respons il ad fauxe la note. Le voilletz vous meyntener ou noun?—Setone, *videns opinionem* CURIE, tendist⁴ daverer qils tiendrent joyntement come la note suppose; prest, &c.—*Et alii e contra*.—Skip. Ore prioms qe les defendantz puissent faire attourne, qar ils nattournerount⁵ pas sur ceste note, qar fee est clame, &c.—HILL. Cest clamer nest pas pris pur plee, par quei si trove soit encountre eux⁶ ils attournerount.⁵—Et pur ceo ils⁷ ne furent pas resceu de faire attourne, &c.

A.D.
1345-6.

(2.)⁸ § Annuite pur William Dedyngtone,⁹ Mestre de la mesoun de Seynte Croiz,¹⁰ juxte Wyncestre, vers une persone qe avoit eide du Roi, *ut patet supra*. Et ore le Roi maunda brief daler avant.—Sadel. Puis la darreyne¹¹ continuance le pleintif est eslit Evesqe de Wyncestre et conferme, et issint par cel noun de dignite il ad perdue chesqun autre noun doffice, et issint ad il abatu soun brief demene; jugement du brief.—Birtone.¹² Et del houre qe vous nallegetz pas qe par creacion il soit Evesqe, issint qe tut fut il come vous parletz, come nous ne conissoms pas, unqore il demoert¹³ Mestre, &c., come avant,¹⁴ et autre chose ne ditetz, nous demandoms

Annuite.
[Fitz.,
Briefe,
250.]¹ il is from H. alone.² ne is from H. alone³ H., avoit.⁴ C., tendi.⁵ C., nattournerent.⁶ I., vous.⁷ ils is from H. alone.⁸ From the four MSS., as above.⁹ L., and I., de Edyngtone; H., de Edydone.¹⁰ C., Croys.¹¹ L. and I., dreyne.¹² C., Brett.¹³ H. and C., demurt.¹⁴ C., devant.

No. 3.

A.D. 1345-6. *Sadelyngstanes*. Will you say anything else?—*Sadelyngstanes* traversed the prescription which the plaintiff took for his title.

Avowry. (8.) § *Thomas de Stirkeland* brought a *Replevin* against *Roger de Burton*. By reason of the non-suit of the plaintiff heretofore the defendant had the Return. And the plaintiff had a writ of *Second Deliverance* out of the rolls, returnable now, and no writ is returned. Therefore *Moubray* recited this process, and said that the second deliverance had been made though the writ had not been served, and prayed the Return irreplevisable by reason of the plaintiff's non-suit.—*Haveryngton*. The Court cannot be apprised of your statement if the writ be not served, and it is not of record that we sued this *Second Deliverance*, because any one who chooses to ask for it can have it; and in case that can make an issue we shall be ready to maintain that the second deliverance has not been made; therefore we pray an *Alias* writ *de Secunda Deliberatione*.—*Moubray*. And we shall be ready to maintain that the second deliverance was made, and that you are seised of the beasts, if that can make an issue; and, if that be so, the fact that the officer has not returned the writ will not be turned to our prejudice.—Afterwards the Court was minded to award the *Alias* writ; but the writ was served later, and returned.—Therefore, after the count had been counted *Moubray* avowed on *Walter de Stirkeland*, as on his own tenant by

No. 8.

jugement.—SCHAR. et HILLARY a *Sadel*. Voilletz autre chose dire?—*Sadel*. traversa la prescripcion quele il prist pur title. A.D.
1345-6.

(3.)¹ § Thomas de Stirkeland porta *Replegiari* vers Roger de Burtone.² Par noun suyte le defendant avoit retourn autrefoith. Et le pleintif avoit brief hors de roulles de la secounde deliveraunce retournable a ore, et nul brief est retourne. Par quei *Moubray* rehercea ceo proces et dit qe la secounde deliveraunce fuit faite coment qe le brief nest pas servy, et pria retourn nient replevissable par noun suyte del pleintif.—*Har*. Court ne put estre appris de vostre dit si le brief ne soit⁴ servy, ne⁵ il nest pas de recorde qe nous suimes cel secounde deliveraunce,⁶ pur ceo qe chesqun qe le voile⁷ demander le poet⁸ aver; et en cas qe il purra⁹ faire issue nous serroms prest de meyntenir qe la secounde deliveraunce ne se fit pas; par quei nous prioms *sicut alias*.—*Moubray*. Et nous serroms prest de meyntenir qe la secounde deliveraunce se fit, et qe vous estes seisi des bestes, sil purra faire issue; et, si issi soit, de ceo qe le ministre nad pas retourne le brief ne nous tournera pas en prejudice. Puis la Court voleit aver¹⁰ agarde *sicut alias*; mes apres le brief fut¹¹ servy et¹² retourne. Par quei apres counte counte *Moubray* avowa sur¹³ Wauter Stirkeland, come sur [Fitz.,
Avowere,
125.]

¹ From the four MSS., as above, but corrected by the record, *Placita de Banco*, Hil., 20 Edw. III., R^o 314. It there appears that the action was brought by Thomas son of Walter de Stirkeland against Roger de Burton, knight, in respect of a taking of four oxen and six cows "die Lunæ proxima ante Festum Sancti Andrew Apostoli anno domini Regis nunc undecimo, in villa de Burtone in Kendale in quodam loco qui vocatur

"Hencastre."

² C., *Replegiari*.

³ L., H., and I., Birtone.

⁴ L., and I., serroit; C., fuit.

⁵ C., et.

⁶ C., brief.

⁷ L., voleit, instead of le voile.

⁸ C., poait.

⁹ C., purreit.

¹⁰ aver is from H. alone.

¹¹ fut is omitted from C.

¹² C., fuit.

¹³ C., pur.

No. 3.

A.D.
1345-6.

virtue of the statute,¹ for homage, &c.—*Haveryngton*. We tell you that Roger, great-great-grandfather of the avowant, before the statute, enfeofed one W.² of a carucate of land, to hold by the services of 6s. 8d. in lieu of all services. And *Haveryngton* showed that afterwards the heir of the donor purchased a third part of the same tenements in demesne, and alleged that the very tenant gave the two other parts to one J.² in fee tail, with remainder in fee simple to the plaintiff. And we demand judgment (said *Haveryngton*) whether the defendant can make avowry on any other person than upon him. And *Haveryngton* said further that the plaintiff had always been and still was ready to perform the services due in respect of his portion.—*Moubray*. We tell

¹ 18 Edw. I. (*Quia emptores*).

² For the real names, &c., see p. 9, note 3.

No. 3.

soun tenant par statut, pur homage, &c.¹—*Har.* A.D. 1345-6.
 Nous vous dioms qe R. tresael lavowaunt feffa, avant
 statut, un W. dune carue de terre, a tenir par les
 services de vjs. viiid. pur toux services. Et
 puis moustra qe leire le donour ad purchase
 la terce partie de mesmes les tenementz en
 demene, et alleggea qe le verroi² tenant dona
 les ij parties a un J. en fee taille, le remeindre de
 fee simple a ceste qe se pleynt. Et demandoms
 jugement si sur autre qe sur luy purra avowere
 faire. Et dit outre qe tut temps il ad este prest
 et unqore est de faire les services dues de la
 porcion.³ *Moubray.* Nous vous dioms qe autrefoith,

¹ The avowry was, according to the record, "quod quidam Adam Gernet tenuit de ipso Rogero duo mesuagia et duas carucatas terræ, cum pertinentiis, in Burtone in Kendale, unde prædictus locus in quo, &c., est parcella, per homagium, fidelitatem. et servitium sex solidorum et octo denariorum per annum, et ad scutagium domini Regis quadraginta solidorum cum acciderit decem solidos, et ad plus plus et ad minus minus, et faciendo sectam ad curiam ipsius Rogeri Burtone de tribus septimanis in tres septimanas, de quibus servitiis quidam Rogerus de Burtone, pater ipsius Rogeri de Burtone, cujus heres ipse est, fuit seisitus per manus prædicti Adæ ut per manus veri tenentis sui, qui quidem Adam feoffavit inde Walterum de Stirkeland tenendis sibi et heredibus suis in perpetuum, per quod idem Walterus devenit tenens ipsius Rogeri virtute statuti, &c. Et quia homagium et fidelitas prædicti Walteri post mortem prædicti Adæ et redditus prædictus per

"undecim annos antedie captionis prædictæ eidem Rogero aretro fuerunt, cepit ipse prædictos boves et vaccas pro homagio prædicto in prædicto loco, prout ei bene lieuit, &c."

² C. (by interlineation in a later hand), qapres cele qe vous supposez estre votre, instead of qe le verroi.

³ The plea on behalf of Thomas was, according to the record, "quod quidam Rogerus de Burtone, triavus prædicti Rogeri, cujus heres ipse est, diu ante statutum, &c., dedit cuidam Adæ Gernet quædam tenementa per nomen unius mesuagii et unius carucatæ terræ, unde prædicta duo mesuagia et duæ carucatæ terræ, unde prædictus locus in quo, &c., fuerunt duæ partes, tenenda ipsi Adæ et heredibus suis de ipso Rogero et heredibus suis per servitia sex solidorum et octo denariorum per annum pro omnibus servitiis, &c., qui quidam Adam obiit inde seisitus. Et de ipso Adam exivit quidam Johannes, et de ipso Johanne exivit quidam Johannes, qui

No. 3.

A.D.
1345-6.

you that heretofore, on this same taking, we avowed as we have now done, &c., and at that time he alleged that he was our tenant in respect of a moiety of the whole, &c., and that our ancestor had purchased the demesne of the other moiety; and he said that he had tendered a moiety of the services, in this way acknowledging that he did not tender the entirety of the services due for the portion in respect of which he now acknowledges that he is our tenant; and inasmuch as he is a stranger to our avowry, and could not compel us to avow upon him, by reason of the matter which he has put forward, except by a tender of all the services due in respect of the tenements holden of us, and he heretofore confessed, on this same taking, that he tendered only in respect of part, and not in respect of the entirety, we therefore demand judgment, and pray

No. 3.

a mesme ceste prise, nous avowames come ore feimes, &c., a quel temps il alleggea coment il fuit nostre tenant de la moyte del entere, &c., et de lautre moyte nostre auncestre avoit purchace le demene; et dit qil avoit tendu la moyte des services, et issi conissant qil ne tendi pas lenterete¹ des services dues par la porcion de la quele il conust ore estre nostre tenant; et desicome il est estraunge a nostre avowere, et ne nous pout² chacer davower sur luy par la matere quele il ad moustre forge par tendre de touz les services des tenementz tenuz de nous, et autrefoith conissast a mesme ceste prise, qil tendi forge pur parcelle et ne mye pur lenterete,³ par quei nous demandoms jugement et prioms retourne nient replevisable⁴—

A.D.
1345-6

"quidem Johannes filius Jo-
"hannis fuit seiscitus de in-
"tegro eorundem tenementorum,
"et de tertia parte illorum tene-
"mentorum feoffavit quendam
"Rogerum de Burtone, avum præ-
"dicti Rogeri, cujus heres ipse est,
"et de duabus partibus eorundem
"tenementorum, quæ sunt præ-
"dicta duo mesuagia et duæ
"carucatæ terræ unde prædictus
"locus in quo, &c., est parcella,
"obiit seiscitus, post cujus mortem
"intravit in eisdem prædictus
"Adam Gernet ut filius et heres,
"per cujus manus prædictus
"Rogerus supponit prædictum
"patrem suum fuisse seiscitum de
"servitiis prædictis, qui quidem
"Adam feoffavit inde prædictum
"Walterum de Stirkeland, et idem
"Walterus feoffavit inde quendam
"Radulphum filium ejusdem Wal-
"teri tenendis ipsi Radulpho et
"hereditibus de corpore suo exeunti-
"bus, ita quod si idem Radulphus
"obiret sine, &c., tenementa illa
"remanerent isti Thomæ qui nunc

"queritur, &c., qui quidem Ra-
"dulphus obiit sine herede de se.
"per quod ipse Thomas seiscitus
"est de duabus partibus prædictis
"virtute feoffamenti prædicti, quæ
"sunt ista duo mesuagia et duæ
"carucatæ terræ unde prædictus
"locus in quo, &c., est parcella.
"Et ita est ipse tenens prædicti
"Rogeri de duabus partibus illis,
"et semper paratus fuit facere
"eidem Rogero servitia inde
"debita pro portione, &c., unde
"petit judicium si super alium
"quam super ipsum pro servitiis
"illarum duarum partium advo-
"care possit, &c."

¹ C., plenerte, instead of pas lenterete.

² C., poet.

³ L., H., and I., lentier.

⁴ The replication on behalf of Roger was, according to the record, "Rogerus, non cognoscendo quod ipse est tenens de aliqua parcella prædictorum tenementorum sicut prædictus Thomas asserit, dicit quod alias in Curia

No. 3.

A.D. 1345-6. the Return irreplevisable.—*Haveryngton*. This avowry is made on the Second Deliverance, on which the plaintiff may vary from his first count, and the avowant from his first avowry, so that he cannot take advantage of matters previously pleaded. Besides, when we said that we tendered the services in respect of a moiety, we did not say in respect of a moiety only, so that what we said before might be

No. 3.

Har. Ceste avowere est faite sur la secounde delivraunce, en quel le pleintif poet varier de soun primer count, et lavowant de sa primere avowere, issi qe des choses pledes avant il ne poet prendre avantage. Ovesqe cella, quant nous deismes¹ qe nous tendimes les services de la moyte, nous ne deymes mye qe soulement de la moyte, issi qil pout esteer

A.D.
1345-6.

“ Regis hic, scilicet a die Sancti
“ Michaelis in xv dies anno regni
“ Regis nunc duodecimo, prædictus
“ Thomas questus fuit quod idem
“ Rogerus et quidam Johannes
“ Baret præfata die Lunæ ceperunt
“ prædictos quatuor boves et sex
“ vaccas in prædicto loco de
“ Hencastre, et idem Rogerus pro
“ se et prædicto Johanne adtunc
“ advocaverunt prædictam capti-
“ onem esse justam, &c., eadem
“ ratione et eadem causa qua nunc
“ advocat, &c. Ad quod idem
“ Thomas tunc asseruit præfatum
“ Johannem filium Johannis filii
“ Adæ Gernet fuisse seiscitum de
“ prædictis tenementis, cum perti-
“ nentiis, et dixit quod idem
“ Johannes filius Johannis de
“ medietate tenementorum illorum
“ feoffavit quendam Rogerum de
“ Burtone avum ipsius Rogeri
“ nunc, cujus heres ipse est, et de
“ alia medietate eorundem tene-
“ mentorum obiit seiscitus. Et
“ postmodum prædictus Adam, per
“ cujus manus supponit præfatum
“ Rogerum, patrem, &c., fuisse
“ seiscitum de servitiis prædictis,
“ feoffavit inde prædictum Wal-
“ terum, qui postea feoffavit inde
“ præfatum Radulphum in forma
“ prædicta, ita quod si, &c., virtute
“ cujus feoffamenti idem Thomas
“ tunc dixit se fuisse seiscitum de
“ medietate prædicta pro eo quod
“ prædictus Radulphus obiit sine,

“ &c., et unde prædictus locus
“ in quo, &c., est parcella. Et dixit
“ quod ipse fuit tenens prædicti
“ Rogeri de medietate illa, et
“ semper paratus fuit facere eidem
“ Rogero servitia inde debita, et
“ pro portione, &c. Et petiit
“ judicium si super alium quam
“ super illum pro servitiis illius
“ medietatis advocare posset, &c.
“ Et ita dicit quod, ubi prædictus
“ Thomas nunc supponit ipsum
“ esse tenentem ejusdem Rogeri de
“ duabus partibus tenementorum
“ prædictorum, et quod ipse semper
“ paratus fuit facere eidem Rogero
“ servitia debita pro duabus parti-
“ bus illis, hoc dicere non potest,
“ quia dicit quod idem Thomas
“ adtunc asseruit ipsum fuisse
“ tenentem nisi de medietate
“ prædictorum tenementorum, et
“ servitia pro medietate illa
“ tantum facere dixit de semper
“ paratum fuisse, per quod ad
“ dicendum quod ipse Thomas est
“ tenens ejusdem Rogeri de duabus
“ partibus eorundem tenemen-
“ torum, et quod ipse servitia
“ debita de duabus partibus illis
“ semper paratus fuit facere eidem
“ Rogero admitti non debet contra
“ hoc quod ipsemet alias in Curia
“ hic in responsione sua supponit,
“ unde petit judicium et returnum
“ prædictorum averiorum, &c.”

¹ C., deimes.

No. 3.

A.D.
1345-6.

consistent with that which we say now. Besides, that which we say now is to his advantage, and therefore he cannot insist on its contradictoriness.—*STONORE*. Since you now admit that more is due than you previously said was due after the taking, it seems that you, who are a stranger, cannot by any law plead in abatement of his avowry.—*Birton*. The lord can avow on the feoffee by virtue of the statute¹ even without having seisin by the feoffee's hand; therefore when the person who was enfeoffed came to the lord and tendered his services, were the amount more, or were it less, he gave notice to the lord that he was that lord's tenant, so that the lord could avow upon him; therefore when after such tender he avows on a person other than the feoffee, whether the tender was of more or less, the avowry is bad.—*Richemunde*. A person who is enfeoffed, before he can compel the lord to avow upon him, must tender all that is due, with all the arrears; and by record, to which you were yourself a party, it is proved that you did not tender the entirety of the services in respect of which you now confess tenancy, and therefore we demand judgment.—*WILLOUGHBY*. Some people think that on this Second Deliverance the plaintiff cannot vary from his first count, nor the avowant from his first avowry.—*Quere*.—Afterwards, because the tenancy is now confessed to be larger than that in respect of which the tender was made on the first avowry, and so the Court held that the tender before the taking was not sufficient, the Return irreplevisable was therefore adjudged.

¹ 18 Edw. I. (*Quia emptores*).

No. 3.

ceo qe nous deimes devant ove ceo qe nous dioms¹ a ore. Ovesqe cella, ceo qe nous dioms¹ a ore est en avantage de luy, par quei il ne poet prendre a la contrariouste. — *Stron.* Quant vous conissetz ore qe plus est due qe autrefoith puis² la prise ne deistes,³ il semble qe⁴ vous qestes estraunge ne poetz par nulle ley pleder al abatement de savowere. — *Birtone.* Le seignur poet avower sur le feffe par statut tut saunz seisine par my sa mayn; donques quant celuy qe fut feffe vient au seignur et tendi ses services, fut il plus, fut il⁵ meyns, il dona notice au seignur qil fut soun tenant, issi qil pout⁶ avower sur luy; donques quant apres tiel tendre il avowe sur autre qe sur le feffe,⁷ lequel⁸ le tendre fut de plus ou de meyns, lavowere est malveys. — *Rich.* Celuy qest feffe devant qe il chacera le seignur davowere sur luy il covient tendre quautqest due ove touz les arrerages; et par recorde, a quel vous mesmes estoietz partie, il est prove qe vous ne tendistetz pas lenterete⁹ de services de quei vous conissetz ore la tenance, par quei nous demandoms jugement. — *Wilby.* Asquns gentz quident qe a cest Secoude Deliveraunce le pleintif ne poet varier de soun primer count ne lavowant de sa primere avowere. — *Quere.* — Puis, pur ceo qe la tenance est ore conu plus large qe le tendre fut fait a la primere avowere, et issint Court tient qe le tendre devant la prise ne fut pas suffisaunt, par quei retourn nient replevisable fut¹⁰ agarde.¹¹

A.D.
1345-6.[Fitz.,
Estoppel,
186.]¹ I., H., and I., deymes.² I., a.³ C., tendistes.⁴ The words il semble qe are omitted from C.⁵ H., and C., ou, instead of fut il.⁶ H., poait.⁷ C., tendre.⁸ I., et qe.⁹ C., plenerte, instead of pas lenterete.¹⁰ C., est.¹¹ The judgment, which immediately follows the replication on the roll, was "Quia per recordum hic de prædicto termino Michaelis compertum est quod prædictus Thomas de tenementis prædictis supponit ipsum tenuisse de præ-

No. 4.

A.D.
1345-6.
Debt.

(4.) § Debt was sued in the Exchequer by one

No. 4.

(4.)¹ § Dette suy en Lescheker par un qe fut A.D. 1345-6.Dette.
[Fitz.,
Ley, 52.]

" dicto Rogero medietatem tantum,
 " et servitia pro eadem medietate
 " tantum debita obtulit se facere,
 " et modo expresse cognovit quod
 " ipse est tenens ejusdem Rogeri
 " de duabus partibus tenementorum
 " prædictorum, et tunc fuit,
 " pro quibus ad plenum ante
 " tempus istud non obtulit se
 " facere servitia inde debita eidem
 " Rogero, per quod consideratum
 " est quod idem Rogerus habeat
 " returnum prædictorum boum et
 " vaccarum irreplegiabile in perpetuum. Et idem Thomas in
 " misericordia, &c."

¹ From the four MSS., as above. The case appears to be that found on the Plea Roll of the Exchequer of Pleas, 20 Edw. III. "Adhuc de quindena Sancti Martini anno xx°."

The skin has a modern pencil number 16, the Exchequer Plea Rolls not having been numbered in early times.

" London. Memorandum quod
 " Hardelevus de Bartone, qui in
 " prisona Regis de Flete existit
 " pro mxxj libris de remanentia
 " compoti sui de lanis per ipsum
 " de Rege emptis recipiendis per
 " manus Roberti de Beghtone et
 " Simonis de Lentone nuper
 " receptorum lanarum dicti Regis
 " in Comitatu Notinghamiæ de
 " ¹xx saccis lanæ de illis ¹xxx saccis
 " lanæ eidem Regi anno regni sui
 " xv° concessis, et pro cvj saccis
 " iij quarteriis, v petris, x libris et
 " dimidia lanæ de dictis lanis in
 " Comitatu Notinghamiæ in quibus
 " Regi tenetur, venit hic in custodia
 " Custodis dictæ prisonæ de Flete,
 " xxj die Novembris hoc anno, et

" dedit Curis intelligi quod quidam
 " Guillelmus Pouche, qui in Turri
 " Londoniensi in custodia Constabularii
 " ejusdem Turris, certis de
 " causis, existit, eidem Hardelevo
 " teneatur in ccxlj libris, xij
 " solidis. Et petit quod prædictus
 " Guillelmus veniat hic ad
 " respondendum inde Regi in
 " partem solutionis debitorum
 " ipsius Hardelevi prædictorum
 " juxta prerogativam Regis in
 " hac parte; propter quod præ-
 " ceptum fuit Constabulario Turris
 " prædictæ, vel ejus locum tenenti,
 " quod venire faceret hic modo,
 " videlicet ad Crastinum Conceptionis
 " beatæ Mariæ, præfatum
 " Guillelmum ad respondendum
 " Regi de ccxlj libris, xij solidis
 " prædictis in partem solutionis
 " debitorum ipsius Hardelevi,
 " prout idem Hardelevus ostendere
 " poterit, &c."

" Ad quem diem idem Guillelmus
 " in custodia Johannis Holcroftæ,
 " locum tenentis Roberti de
 " Daltone Constabularii Turris
 " prædictæ, venit hic. Et prædictus
 " Hardelevus dicit quod cum ipse
 " nuper emisset de domino Rege
 " dictos cvj saccos, iij quarteria,
 " v petras, x libras dimidiam lanæ
 " pro quadam summa pecuniæ,
 " eademque lanæ eidem Hardelevo
 " liberatæ fuissent per breve
 " Regis de magno sigillo suo, juxta
 " formam conventionum inde inter
 " dominum Regem et ipsum
 " junctarum, ipseque de eisdem
 " lanis versus Regem oneratus
 " existat, sicut plenius liquere
 " potest per memoranda hujus
 " Scaccarii, Et postmodum pro
 " eo quod eadem lanæ assignatæ

No. 4.

A.D.
1345-6.

who was the King's debtor in respect of the King's wools, and who alleged that he sold part of the wools to the defendant, and that the defendant had not paid him. The defendant proffered his law, which was counterpleaded on the ground that the King was in a manner party: for, if the plaintiff should recover, the King would have execution in satisfaction of the debt due to him, and for that purpose, and no other, was the suit maintained in the Exchequer; and even if the plaintiff were nonsuited, or would now release to the defendant, the King would nevertheless have the suit, because, when anyone is the King's debtor and has not wherewithal to make satisfaction, the Court will give directions to enquire as to the debts which are owing to him, and by process cause them to be levied to the King's use, &c.—And on the refusal of this wager of law they were adjourned.—And now the defendant tendered the averment that he owed

“ fuerint Philippæ Reginæ Angliæ,
 “ Consorti Regis, sub certa forma
 “ conventa inter dictum Hardele-
 “ vum et Guillelmum Pouche,
 “ attornatum dominæ Reginæ in
 “ hac parte, quod idem Hardelevus
 “ haberet dictas lanas ex conces-
 “ sione ipsius Reginæ virtute
 “ assignationis sibi factæ in hac
 “ parte pro Dcxlj libris, xij solidis,
 “ de qua summa idem Guillelmus
 “ recepit ccxlj libras, xij solidos,
 “ videlicet xxx libras die Jovis
 “ proxima post Festum Sancti
 “ Marci Evangelistæ anno xvj
 “ Regis nunc in warda de Doune-
 “ gate in Londoniis per manus
 “ Henrici Pykard, xxxj libras die
 “ Sabbati tunc proxime sequente
 “ in warda de Cordwanerstrete in
 “ Civitate prædicta per manus
 “ Petri del Clay, cx libras die Jovis

“ proxima post Festum Sanctorum
 “ Philippi et Jacobi eodem anno
 “ xvº, apud Kyngestone super
 “ Hulle, per manus Dolfini Pouche,
 “ et lxx libras, xij solidos die
 “ Sabbati tunc proxime sequente
 “ ibidem per manus Dominici
 “ Lumbarð per ipsum Guillel-
 “ mum ad hoc deputatorum.
 “ Et petit quod, cum ipse adhuc
 “ oneratur versus Regem integre
 “ de dictis lanis, quod dictus
 “ Guillelmus respondeat Regi de
 “ prædictis ccxlj libris, xij solidis
 “ per ipsum receptis in forma
 “ prædicta in partem solutionis
 “ debitorum ipsius Hardelevi præ-
 “ dictorum. Et quod dictus Guil-
 “ lelmus debet summam prædictam
 “ ex causa prædicta paratus est
 “ verificare qualitercumque Curia,
 “ &c.”

No. 4.

dettour au Roi des leins le Roi, le quel alleggea qil vendist partie des leins al defendant, qe nad pas paie a luy. Le defendant tendi sa ley, qe fut countreplede pur ceo qe le Roi est en manere partie: qar, si le pleintif recoverast, le Roi avereit¹ execucion en allowaunce de la dette due² a luy, et a cel entente, et a nulle autre, est la suyte meyntenu en celle³ place; et tut fut le pleintif nounsuy, ou voleit relessier ore⁴ al defendant, le Roi, *non obstante*, avereit la suyte, qar quant un homme est dettour au Roi et nad dount faire gree, Court maundra⁵ denquere des dettes qe sount⁶ dues a luy, et par proces les fait lever⁷ al oeps le Roi, &c.⁸—Et sur la ley refuse furent ajournez.⁹—Et ore le defendant tendi daverer qe rienz ne luy devoit.—

A.D.
1345-6.¹ C., averait.² H., diwe.³ C., ceste.⁴ C., a ore.⁵ H., maundra.⁶ The words qe sount are omitted from C.⁷ H., livrer.⁸ According to the record the proffered wager of law and pleadings thereon were as follows:—

“ Et præfatus Guillelmus dicit
 “ quod ipse, ratione dicti contractus de lanis prædictis,
 “ præfatus Hardelevo cccxlvj libras
 “ xiiij solidos, seu quicquam inde
 “ non debet. Et hoc paratus est
 “ defendere per legem suam, &c.”

“ Et præfatus Hardelevus, pro
 “ Rege et se ipso, dicit quod ex quo
 “ ipse prætendebat verificare, pro
 “ Rege et se ipso, quod dictus
 “ Guillelmus recepit cccxlvj libras
 “ xiiij solidos prædictos in forma
 “ prædicta, qui quidem contractus
 “ et receptio constant in cognitione
 “ patriæ, et per patriam verificari

“ possunt, et idem Guillelmus
 “ nihil aliud pro se allegat nisi
 “ tantum per legem suam defendere
 “ se denarios prædictos ea occasione non debere, &c., qui
 “ quidem exitus placiti erga Regem
 “ in hoc casu in Curia ista contra
 “ Regem non debet admitti, petit
 “ judicium, &c.

“ Et dictus Guillelmus ad hoc
 “ dicit quod, desicut idem Hardelevus nullum factum speciale de
 “ contractu et solutione prædictis
 “ ostendit, et ipse Guillelmus se
 “ denarios prædictos non debere
 “ ex causa dicti contractus per
 “ legem suam defendere sit paratus, qui quidem exitus secundum
 “ communem legem terræ in consimili casu est admittendus ex quo
 “ Rex sine prædicto Hardelevo
 “ actionem habere non posset,
 “ petit inde judicium, &c. Et
 “ præfatus Hardelevus similiter
 “ &c.”

⁹ C., adjournez.

No. 5.

A.D.
1345-6.

nothing to the plaintiff.—And because the defendant could not be admitted to wage his law, for the reason above, and the last issue was also inadmissible, and as he could not be admitted to either, judgment was given that the plaintiff should recover the debt, &c., and that the King should have execution, &c.

*Quare
impedit.*

(5.) § A *Quare impedit* was brought, on behalf of the King, against the Prior of Merton, on which the count was that the Prior's predecessor presented, &c., that through his death the temporalities came into the King's hand by reason of wardship, that the King leased the temporalities to a Sub-prior and the Convent, reserving fees and advowsons to himself, that afterwards one Thomas de Kent,¹ a predecessor of the existing Prior, having been elected Prior, intruded upon the temporalities, the fees and advowsons remaining in the King's hand, that at that time the church became void, &c., that after the death of Thomas¹ the predecessor, &c., and

¹ For the real name see p. 23, note 1.

No. 5.

Et pur ceo qil ne poait avenir a sa ley, *causa qua supra*, ne cest drein¹ issue nest pas reseivable, pur ceo qe il ne poait² avenir, &c., fut agarde qe le pleintif recoverast la dette, &c., et qe le Roi ust execucion, &c.³ A.D. 1345-6.

(5.)⁴ § *Quare impedit* pur le Roi vers le Priour de Mertone, countant qe soun predecessour presenta, &c., et qe par sa mort les temporales devyndrent en la meyn le Roi par cause de garde, et qe le Roi lessa a un Suppriour et a Covent les temporales,⁵ reservant⁶ fees et avowesouns a luy, et puis un Thomas de Kente, predecessour, &c., eslieu⁷ en Priour, &c., sabati en les temporales, fees et avowesouns demurauntz⁸ en la meyn le Roi, a quel temps leglise se voida, &c., et puis la mort Thomas

¹ C., darrein.

² C., poet.

³ The words et qe le Roi ust execucion, &c., are from H. alone. The words of the record, from the adjournment on the question of the wager of law to the end, are as follows:—

“ Super quo, quia Curia vult
“ plenius inde deliberare antequam,
“ &c., datus est dies partibus hic
“ in Octabis Sancti Hillarii ad
“ recipiendum inde quod, &c. Et
“ dictum est prefato Johanni
“ Holcrofte quod habeat dictum
“ Guillelmum hic ad Octabas præ-
“ dictas. Ad quem diem tam
“ prædictus Hardelevus in custodia
“ Custodis prisonæ de Flete, quam
“ prædictus Guillelmus in custodia
“ prædicti Johannis Holcrofte
“ venerunt.

“ Et, habita super præmissis inter
“ Barones deliberatione pleniori,
“ consideratum est quod Rex
“ recuperet versus præfatum Guil-
“ lelmum prædictos cœxlj libras

“ xiiij solidos in partem solutionis
“ debitorum prædicti Hardelevi
“ supradictorum, Et quod præ-
“ dictus Guillelmus, qui jam in
“ prisona de Flete de mandato
“ Regis extram [sic] Turrin præ-
“ dictam, ex certis causis in eodem
“ mandato annotatis, committitur,
“ remaneat in eadem prisona quous-
“ que, &c.”

⁴ From the four MSS., as above, but corrected by the record, *Placita de Banco*, Hil., 20 Edw. III., R^o 64. It there appears that the action was brought by the King against the Prior of Merton in respect of a presentation to the vicarage of the church of Kingston-on-Thames.

⁵ C., les temporales al Prior et Covent, instead of a un Suppriour et a Covent les temporales.

⁶ reservant is omitted from C. and I.

⁷ H., and C., eslu.

⁸ In all the MSS. except C. the words a luy are inserted before demurauntz.

No. 5.

A.D. 1345-6. the temporalities came into the King's hand, and so remained until the present Prior sued restitution, and that so it belongs to the King to present.—*Mutlowe* said that the vicarage, in respect of which, &c., was not void while the temporalities, fees, and advowsons were in the King's hand; ready, &c.—

No. 5.

predecessour, &c., les temporales devyndrent en la meyn le Roi, et demurerent tanqe cest Priour suy restitution, issint appent, &c.¹—*Mutl.* dit qe la vicarie dount, &c., ne fut pas voide esteauntz les temporales, fees, et avowesons en la meyn le Roi; prest, &c.²—

A.D.
1345-6.

¹ The declaration was, according to the roll, "quod quidam Thomas de Kente, quondam Prior, &c., prædecessor, &c., fuit seisitus de advocacione vicariæ prædictæ ut de jure Prioratus sui prædicti, . . . tempore domini Regis nunc, qui ad eandem præsentavit quendam Humfridum de Wakefelde, clericum suum, qui ad præsentationem suam fuit admissus et institutus, . . . tempore ejusdem domini Regis nunc, post cujus resignationem prædicta vicaria modo vacat, &c., qui quidem Thomas de Kente Prior, &c., obiit, per quod idem dominus Rex nunc seisivit in manum suam temporalia Prioratus prædicti, simul cum feodis militum et advocacionibus ecclesiarum ad eundem Prioratum spectantibus, et temporalia illa dimisit Suppriori de Mertone qui tunc fuit et ejusdem loci Conventui tenenda durante vacatione Prioratus prædicti, et reddendo inde extenta domino Regi, &c., salvis semper eidem domino Regi et heredibus suis feodis et advocacionibus, &c. Et postea quidam Johannes de Lutlyngtone electus fuit in Priorem, &c., et installatus in eodem Prioratu, ac in temporalibus ejusdem Prioratus præfatis Suppriori et Conventui, ut præmittitur, sic dimissis se intrusit. Et postmodum vacante eodem Prioratu per cessionem prædicti Johannis de Lutlyngtone Prioris, &c., dominus Rex

"seisivit in manum suam temporalia Prioratus prædicti, et ea dimisit præfatis Suppriori et Conventui tenenda de domino Rege in forma prædicta, &c. Et præfatus Prior nunc electus fuit in Priorem, &c., et in temporalibus, &c., præfatis Suppriori et Conventui in forma supradicta per dominum Regem dimissis se intrusit, advocacionibus supradictis in manu Regis adhuc existentibus pro eo quod nec prædictus Johannes de Lutlyngtone, quondam Prior, &c., nec prædictus Prior nunc easdem advocaciones secutus fuit extra possessionem Regis usque decimum diem Novembris proxime præteritum, &c., infra quod tempus prædicta vicaria vacavit post resignationem præfati Humfridi, &c., per quod ad ipsum dominum Regem nunc pertinet ad prædictam vicariam præsentare . . . et hoc paratus est verificare pro domino Rege, &c."

² The plea was, according to the roll, "quod tempore quo advocaciones, &c., extiterunt in manu domini Regis post mortem prædicti Thomæ de Kente quondam Prioris, &c., usque prædictum decimum diem Novembris prædicta vicaria non fuit vacans prout prædictus dominus Rex in demonstratione sua supponit. Et hoc paratus est verificare, unde petit judicium, &c."

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A.D.
1345-6.

Thorpe. And inasmuch as you have not denied that the church became void between the first seizure by the King and the suing of restitution (and if you would deny that we should be ready to maintain it), we demand judgment for the King.—*Pole*. You have given forth by your declaration that the King was seised of the fees and advowsons during the whole of that time, and therefore it suffices for us to traverse that.—*Thorpe*. Then we pray that the plea be entered.—*Pole* did not dare to abide judgment, but said that the church did not become void between the first seizure and the restitution; ready, &c.—*Thorpe*. He shall not be admitted to that averment, since he at first gave another answer to the action.—And afterwards *Thorpe* alleged one voidance by resignation, and another by death, between the two times, and that in that way the church did become void; ready, &c. And he said that he alleged the two voidances in order to save to the King the advantage of another presentation on another occasion.—*SHARSHULLE*. That he will have, but you are at a traverse, and will be, in general terms, on the voidance.

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Thorpe. Et de sicome vous navetz pas dedit qe le ne se voida entre la primere seisine le Roi et la restitution suy, quel si vous vodretz dedire nous serroms prest de meyntenir, nous demandoms jugement pur le Roi.—*Pole.* Vous avetz done par vostre demoustrance¹ qe le Roi tut cel temps fut seisi des fees et avowesouns, par quei a traverser cella il nous suffit.—*Thorpe.* Donques prioms qe le plee soit entre.—*Pole* nosa demurer, mes dit qe leglise² ne se voida pas entre la primere seisine et la restitution; prest, &c.—*Thorpe.* A cele averement ne serra il resceu, del houre qil dona³ primes autre respons al accion.—Et puis *Thorpe* alleggea une voidaunce par resignement, autre par mort, entre les deux [temps, et issint voide; prest, &c. Et dit qil alleggea les deux]⁴ voidaunces pur sauver au Roi lavantage dautre presentement autrefoith.⁵—*SCHAR.* Ceo avera il,⁶ mes vous estes a travers, et serretz generalment sur la voidaunce, &c.⁷

A.D.
1345-6.¹ C., moustrance.² C., and I., la eglise.³ I., ne dona.⁴ The words between brackets are from C. alone.

⁵ The replication was, according to the roll, "quod in vigilia Paschæ anno regni Regis nunc tertio decimo Humfridus de Wakefelde fuit inductus in prædicta vicaria de Kyngestone, et fuit vicarius ibidem usque ad undecimum diem Junii anno regni ejusdem Regis nunc quintodecimo, quo die idem Humfridus resignavit prædictam vicariam ex causa permutationis faciendæ inter ipsum Humfridum et quendam Nicholaum de Lyouns tunc personam ecclesiæ de parvo Childerle, qui quidem Nicholaus fuit vicarius ibidem per tres annos, et post mortem ejusdem

"Nicholai quidam Mauricius de Ely fuit præsentatus et vicariam prædictam, qui nunc occupat, &c. Et sic dicit quod dicta vicaria vacavit bis tempore quo dominus Rex habuit jus præsentandi. Et ea ratione, &c." Issue was joined upon this.

⁶ H., and I. A ceste averement ne serra il resceu, instead of Ceo avera il.

⁷ The verdict was "quod inter prædictam vigiliam Paschæ et præfatum decimum diem Novembris prædicta vicaria bis vacavit, videlicet, semel per resignationem prædicti Humfridi de Wakefelde, et iterum post mortem prædicti Nicholai."

Judgment followed for the King to recover his presentation and have a writ to the Bishop.

Nos. 6, 7.

A.D.
1345-6.
Deceit.

(6.) § Deceit against one who had produced a Protection to the delay of a demandant. The defendant produced a Protection, and it was said that it did not lie, because it was the same Protection that had previously been produced, and the object of the present suit was to prove the Protection to be bad and purchased in deceit. And, because the day up to which the Protection was to hold good had not yet arrived, the Protection was allowed.

*Quare
non
admisit.*

(7.) § Hugh le Despenser and Elizabeth his wife brought a *Quare non admisit* against the Bishop of Norwich, counting that they had recovered their presentation, and that he would not admit their presentee.—*Moubray*. We tell you that our predecessor,

Nos. 6, 7.

(6.)¹ § Deceite vers un qe avoit mys avant proteccion en delay del demandant. Le defendant myst avant proteccion, et fut parle qe ele ne gist pas, pur ceo qe cest mesme la proteccion qe autrefoith fut mys avant, et issint fut il a prover par ceste suyte la proteccion estre malveys et en deceyte purchace. Et pur ceo qe le jour nest pas unqore encoru a quel la proteccion est a durer si fut ele allowe.

A.D.
1345-6.
Deceit.
[Fitz.,
Protec-
cion, 83.]

(7.)² § Hugh le Despenser et Elizabeth sa femme³ porterent *Quare non admisit* vers Levesqe de Norwyte,⁴ countaunt qils avoient recoveri lour presentement, et il ne voleit nient resceivre, &c.—*Moubray*. Nous vous

*Quare non
admisit.*
[Fitz.,
*Quare non
admisit,*
9.]

¹ From the four MSS., as above.

The case appears to be that found among the *Placita de Banco*, Hil., 20 Edw. III., R^o 372, d.:—"Loquela "inter Johannem de Meaux, "chivaler, querentem, et Robertum "de Rouclif, de eo quare idem "Johannes nuper implacitasset "Thomam filium Thomæ de la "Ryvere coram Justiciariis hic, "per breve Regis, de manerio de "Gonthorpe, cum pertinentiis, "ac idem Thomas præfatum "Robertum et Johannam uxorem "ejus versus prædictum Johannem "vocaverit ad warrantum, &c., ac "idem Robertus, ad diem inde inter "eos per Justiciarios hic præ- "fixum, Curie Regis ac legi et "consuetudini regni regis Angliæ "manifeste illudendo, et prosecu- "tionem prædicti Johannis in hac "parte prorogare machinando, "quædam literas regias de pro- "tectione continentes ipsum Ro- "bertum in munitione villæ Regis "Berewici tunc extitisse, et ipsum "quietum esse de omnibus placitis "[&c., in the usual form], porrigi "fecit coram Justiciariis hic, ipso

"Roberto tunc et post in Anglia "commorante, per quod loquela illa "coram eisdem Justiciariis sine die "remansit, in Regis contemptum "manifestum, et deceptionem "Curie Regis prædictæ, ac legis et "consuetudinis prædictarum illu- "sionem manifestam, necnon "ipsius Johannis dispendium non "modicum, et exheredationis peri- "culum manifestum, remanet sine "die eo quod prædictus Robertus in "comitiva dilecti et fidelis Regis "Johannis de Stryvelyn custodis "villæ Regis Berewici super "Twedam in obsequio Regis in "munitione ejusdem villæ mora- "tur.

"Et habet protectionem domini "Regis duraturam a vicesimo "nono die Januarii anno regni "domini Regis nunc vicesimo "usque Festum Sancti Michaelis "extunc proxime futurum, præ- "sentibus, &c."

² From the four MSS., as above.

³ The words sa femme are from H. alone.

⁴ H., Norwic; C., Norwike.

No. 7.

A.D.
1345-6.

during his time, made collation, by reason of lapse of time, to the same church, and so at the time at which the King's writ came to us we found the church full by our predecessor's collation, and we could not, therefore, admit the plaintiff's clerk, and we do not understand that you can assign tort in our person. —*Thorpe*. You shall not be admitted to say that, because we say that heretofore we brought a *Quare impedit* against you and others in respect of the same church, and you then came into Court and said nothing except by way of making your claim as Ordinary, thus accepting our title and our statement that the church was void, as we supposed by our count, and we then had a writ to the Bishop against you, and we demand judgment whether you shall be admitted to allege plenarty in that manner when you previously accepted the reverse as a fact. —*Moubray*. When the *Quare impedit* was brought against us, and we had nothing in the patronage, and had not made any hindrance, we could not by law have pleaded in any other manner than we did; and as to that which you say that your title and the voidance were held as not denied, it is not so, because if twenty persons severally brought a *Quare impedit* against an Ordinary, he would say nothing else to any one of them, whether they had right or not, but would claim merely as Ordinary, and, upon that disclaimer of the patronage, each of them would have a writ to the Bishop, and from that fact it appears clearly that he could not acknowledge each of them to be patron; therefore nothing which was pleaded in the *Quare impedit* or said by us is contrary to that which we now say in order to excuse ourselves. —*Thorpe*. If you were to be now admitted to make

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dioms qen temps nostre predecessour par temps passe il fist collacion a mesme leglise, et issint au temps qe le brief le Roi nous vint nous trovames leglise pleine de la collacion nostre predecessour, par quei nous ne poames resceivre soun clerk, et nentendoms pas qe tort en nostre persone puissetz¹ assigner.²—*Thorpe*. A cella dire ne serretz resceu, qar nous dioms qe autrefoith nous portames *Quare impedit* vers vous et autres de mesme leglise, a quel temps vous venistes en Court et rienz ne deistes, mes clamastes come Ordeigner,³ acceptant nostre title, et⁴ qe leglise fut voide come nous supposames par counte, et adonques avioms brief al Evesqe devers vous, et demandoms jugement si dallegger la plenerte par la manere la revers de quel autrefoith vous acceptastes, si vous serretz resceu.—*Moubray*. Quant le *Quare impedit* fut porte vers nous, et nous navioms rienz en le patronage, ne nulle destourbance avioms fait, nous ne poames par ley par autre manere aver plede qe nous ne feismes⁵; et quant a ceo qe vous ditetz qe vostre title fut tenu nient⁶ dedit et la voidaunce, il nest pas issi, qar si xx. portent severalment⁷ *Quare impedit* vers Ordeigner,⁸ a chesqun de eux il ne dirra autre chose, quel qils ount⁹ dreit ou nient, mes clamereit come Ordeigner,⁸ et sur cel desclamer en le patronage chesqun de eux avera brief al Evesqe, et de ceo piert il bien qil ne conust pas chesqun de eux estre patroun; par quei rienz⁹ qe fut plede en le *Quare impedit* ou dit par nous est a contraire¹⁰ de ceo qe nous dioms ore pur nous escuser.—*Thorpe*. Si vous fuissetz resceu a tiel respons a

A.D.
1345-6.¹ H., and C., puisse.² C., attacher.³ H., Ordiner.⁴ et is omitted from C.⁵ C., feismes.⁶ C., a nient.⁷ H., generalment.⁸ H., and C., ussent.⁹ I., nentendoms qe rien.¹⁰ C., contrere.

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A.D.
1345-6.

such an answer, you would put me to plead my title in the *Quare impedit*, which is not permissible by law, particularly when you were yourself previously a party to the *Quare impedit*, and could then have pleaded or at least have made protestation so as to have saved your plea in the *Quare non admisit*; and since you did not do so you have lost the advantage.—WILLOUGHBY, *ad idem*. With regard to a matter of which the Bishop could have had knowledge at the time of the *Quare impedit*, such as plenarty, and which he did not then allege, it is not right that he should afterwards have the advantage of saying the reverse [of what was then said]; and the Ordinary could know as well of plenarty in the time of his predecessor as of plenarty in his own time; but it would be otherwise with regard to bastardy, excommunication, or other disability in the person of the presentee, which are matters that he could not know at the time when the *Quare impedit* was brought; therefore, even though he pleaded nothing as to *Quare impedit* except as Ordinary, he might afterwards, on a *Quare non admisit*, avow the refusal of the presentee by reason of such disability as that, notwithstanding the fact that he did not allege it in the *Quare impedit*; but therefore also it is not right, as it seems, to allege plenarty in this *Quare non admisit*.—Moubray. We take your records to witness that they refuse the averment.—Grene. If a part of the period of six months elapsed in the time part of his predecessor, and part in his own time, he will of his predecessor's advantage as if the whole period had have the same ~~whole~~ time, that is to say, the advantage elapsed in his own time, *per lapsum temporis*. Suppose of giving, as Ordinary, that of six months elapsed in then that the whole period of six months elapsed in the time of this Bishop, and that a *Quare impedit* had been brought against him after he had made collation, and he claimed nothing except as Ordinary, without

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ore,¹ vous moi mettretz de pleder moun title en le *Quare impedit*, qe nest pas suffrable par la ley, nomement quant vous mesmes estoietz partie devant al *Quare impedit*, et adonques le puissetz aver plede ou a meyns aver fait protestacion de vous aver sauve vostre plee en le *Quare non admisit*; et de puis qe vous ne le feistes pas vous avetz perdu lavantage.—WILBY, *ad idem*. Chose de quei Levesqe al *Quare impedit* poait aver eu conissaunce, come plenerte, et nel alleggea pas il² nest pas resoun qil eit lavantage apres a dire le revers; et auxi bien poet Lordeigner³ saver de plenerte en temps de soun predecessour come de soun temps demene; mes autre serreit de bastardie, escomengement, ou altre nounablete a la persone le presente, quele chose il ne poait saver quant le *Quare impedit* fut porte; par quei, tut ne pleda il rienz al *Quare impedit* mes come Ordeigner,³ a un *Quare non admisit* apres il purra avower le refuser par tiel⁴ nounablete, *non obstante* qil nallleggea pas en le *Quare impedit*, par quei en cest *Quare non admisit* dallegger plenerte nest pas resoun a ceo qe semble.—Moubray. Nous pernomms voz⁵ recordes qils refusent laverement.—Grene. Si en temps soun predecessour partie de temps de vj. moys passa,⁶ et partie en soun temps demene, il avera mesme lavantage com si tut le temps fut passe en soun temps demene, saver a doner *per lapsum temporis* come Ordeigner.³ Donques posetz qe tut le temps de vj. moys passa⁶ en temps ceste Evesqe, et *Quare impedit* fut porte vers luy apres ceo qil avoit fait la collacion, et il ne clama riens mes come Ordeiner,³ saunz avowere qil avoit

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1345-6.

¹ The words a ore are from C. alone.

² il is from I. alone.

³ H., Ordiner

⁴ I., title de.

⁵ voz is from C. alone.

⁶ I., fut passe.

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1345-6.

avowing that he had given by reason of lapse of time, and the plaintiff had had a writ to the Bishop against him, he would not, in a *Quare non admisit*, be able to avow the refusal of the presentee by reason of such plenarty, nor consequently in this case, inasmuch as he could have alleged the plenarty caused by his predecessor's collation as well as by his own.—STOUFORD, *ad idem*. An Ordinary can, on a *Quare impedit*, avow some kind of hindrance which another person cannot, and he can avow some kind of hindrance on a *Quare non admisit* which he could not avow on a *Quare impedit*, as, for instance, disability of the person, as has been previously mentioned; but on a *Quare impedit* he could well avow plenarty through his own collation or that of his predecessor, either of which falls under his notice, and when he has on the *Quare impedit* allowed his time to pass he loses the advantage, as it seems, of alleging it afterwards.—Moubray. An Ordinary cannot allege a last presentation, or plenarty, nor can he plead anything to the plaintiff's title in a *Quare impedit*, unless he were to plead it as a disturber; and if our predecessor caused hindrance by collation within the period of six months, of his own wrong, we are not to be punished for that; therefore if you will abide judgment on that, we take the records to witness that you refuse the averment.—Mutton. We tell you that Hugh Giffard, parson imparsonnee of the same church, in the time of William de Ermyn, your predecessor, was deprived, &c., which deprivation was affirmed in the Court of Arches, and therefore Giles de Badlesmere, first husband of the plaintiff Elizabeth, presented William Herlyng, who was admitted, &c., on his presentation, which William, as parson imparsonnee, continued his estate in the time of your predecessor William, and

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done par temps passe, et le pleintif ust brief al Evesqe vers luy, en *Quare non admisit* il navowereit pas le refuser¹ par tiele plenerte, *nec per consequens* en ceste matere, desicome il poait aver allegge la² plenerte fait par la collacion son predecessour si bien come de luy mesme.—STOUF. *ad idem*. Ordiner a un *Quare impedit* poet avower asqun destourbaunce quel autre persone ne poet pas faire, et asqun destourbaunce poet il avower a un *Quare non admisit* quel il navowereit pas al *Quare impedit*, come nounablete de persone sicome avant ad este parle; mes plenerte de sa collacion demene ou de soun predecessour, qe chient³ adonques en sa notice avowereit il bien al *Quare impedit*, et, quant il ad sursys soun temps al *Quare impedit* il perde⁴ lavantage, a ceo qe semble, del allegger apres.—*Moubray*. Ordiner ne poet allegger darrein presentement, ne plenerte, ne rienz pleder au title le pleintif en *Quare impedit*, sil ne pledast come destourbour; et si nostre predecessour fit destourbaunce par collacion deinz le temps de vj. moys, de soun tort, nous ne serroms pas puny; par quei si vous voilletz⁵ la² demurer nous pernoms voz recordes qe vous refusetz laverement.—*Mutl*. Nous vous dioms qe⁶ Hugh Giffard persone enpersone de mesme leglise, en temps William Dermyn,⁷ vostre predecessour, fuit prive, &c., quele privacion en les Arches fut afferme, par quei G. de Badelesmere,⁸ primer baron Elizabeth qe se pleint, presenta William Herlynge qe a soun presentement fut receu, &c., le quel William, come persone enpersone, continua soun estat en temps de vostre predecessour William, et tut le temps

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1345-6.

¹ The words le refuset are omitted from I.

² la is from C. alone.

³ H., cheient; C., chiet.

⁴ C., ad perdu.

⁵ L., voletz.

⁶ C., qun.

⁷ H., de Ermyn.

⁸ L., Bassingbourne.

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all the time of your predecessor Anthony, and during your own time, until he resigned, &c., upon which voidance we brought the *Quare impedit*, and recovered; and you have not denied that you received the King's writ to admit our presentee, and you have confessed that you did not admit him; judgment, and we pray our damages, and that you be convicted of contempt.—*Moubray*. We do not admit that this Hugh, of whom you speak, was deprived, and we tell you that, whereas you suppose that during the whole of the time of our predecessor Anthony the church was full of William Herlyng, you shall not be admitted to say that, because you yourself, while you were sole, brought a *Quare impedit*, after the death of your first husband, against A. de B. in the time of our predecessor Anthony. Process was continued until you recovered and had judgment in your favour. And because the period had elapsed you had your double damages. And we demand judgment, since you recovered your presentation to the church as being void, whether you shall be admitted to allege plenarty. And *Moubray* said further, as above, that by reason of the time having elapsed, the Bishop's predecessor Anthony made collation, &c., of whom, &c.—*Grene*. You see plainly how he is a stranger to this record of which he speaks, and he has not denied matter surmised in fact which proves the church to have been full at the time of which he speaks, which fact, if he will traverse it, we shall be ready to maintain. And as to that which he says of the *Quare impedit* brought by us, you see plainly how we are still appearing by guardian, so that we were at that time under age, in which case a supposal made by us that the church was void does not oust us from averring the reverse; and since we have alleged the fact to be otherwise, and he does not maintain the reverse

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Antoigne¹ vostre predecessour, et en vostre temps demene, tanqe il resigna, &c., sur quel voidaunce nous portames le *Quare impedit* et recoverimes; et vous navetz pas dedit qe vous ne resceustes brief le Roi de resceivre nostre presente, et vous avetz conu qe vous ne luy resceustes pas; jugement, et prioms noz damages, et qe vous soietz atteint del contempte.—*Moubray*. Nous ne conissons pas qe celuy Hughe dount vous parletz fut prive, et vous dioms qe, la ou vous supposez qe tut le temps Antoigne¹ nostre predecessour leglise fut pleine de William Herlyng, a cella ne serretz resceu a dire, qar vous mesmes sole portastes un *Quare impedit* apres la mort vostre primer baron vers A. de B. en temps Antoigne¹ nostre predecessour. Proces continue tanqe vous recoveristes et avietz jugement pur vous. Et pur ceo qe le temps fut passe avietz vos damages a double. Et demandoms jugement del heure qe vous recoveristes vostre presentement a eglise voide si dallegger plenerte serretz vous resceu. Et dit outre, *ut supra*, qe par cel temps passe A. souñ predecessour fist collacion, &c., de qi, &c.—*Grene*. Vous veietz bien coment a cel recorde² dount il parle il est estraunge, et chose surmys en fait qe prove leglise estre plein al temps qil parle il nad pas dedit, le quel fait, sil le voille³ traverser, nous serroms prest de meyntener. Et a⁴ ceo qil parle del *Quare impedit* porte par nous, vous veietz bien coment nous sumes⁵ unquore par gardein, issint qe adonques nous fumes deinz age, en quel cas supposaille faite par nous qe leglise fut⁶ voide ne nous ouste pas daverer le revers; et del heure qe nous avoms allegge le fait estre autre, et il

A.D.
1345-6¹ C., Antone.² H., acorde.³ C., voleit,⁴ a is from H. alone.⁵ C., sumus.⁶ I., ne fut.

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A.D.
1345-6.

by averment, the fact alleged by us must be held to be not denied; and he has not denied the other points of our action; judgment, &c.—*Skipwith*. I know well that a supposal made by an infant under age is not so strong as if he were of full age; but when he prosecutes a matter as far as judgment, and judgment is rendered thereon, he is as strongly bound by that supposal as a man of full age.—*WILLOUGHBY*. Then will you not say anything else? *Grene, ad idem*. Even though she had supposed that the church was void, and had counted in that manner, which she did not do, still if the fact was otherwise, that is to say, that the church was then full, that did not give authority to the Ordinary to give the church; therefore, whereas he does not deny that the fact was otherwise, he shall never have any advantage from such a supposal.—*Rokel*. We tell you that Hugh Giffard, of whom we have spoken, was parson imparsonnee in the time of William de Ermyn, our predecessor, as above; and although you speak of his deprivation, as above, we tell you that he sued by Appeal to the Court of Rome, and by virtue of sentence in his favour there rendered he was restored to his possession, and died parson imparsonnee; and upon a dispute on the voidance after his death, which William Botevillein and his wife raised, the period [of six months] elapsed, and therefore our predecessor Anthony, as Ordinary, made collation to John de Kelsey, and made induction of him, of which John, at the time of your recovery, the church was full, and still is, *absque hoc* that William Herlyng was parson imparsonnee (which we do not admit) of the same church; ready, &c., and we

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meintent pas le revers par averement, il covient qe le fait allegge par nous soit tenuz a nient dedit; et les autres pointz de nostre accion nad il point dedit; jugement, &c.—*Skip*. Jeo say bien qe supposable fait par enfaunt¹ deinz age nest pas si fort come sil fut de plein age; mes quant il pursuyt une chose tanqe au jugement, et jugement sur ceo est² rendu, il est lie si fort par cel supposable come homme de plein age.—*WILBY*. Donques ne voillezt³ autre chose dire?—*Grene, ad diem*. Tut supposa ele⁴ qe leglise fut voide, et ust counte⁵ par la manere come ele ne fist pas, unquore si le fet fut autre, saver, qe leglise adonques fut pleine, ceo ne dona pas auctorite al ordiner de doner leglise; par quei de tiel⁶ supposable, la ou il ne dedit pas le fet estre autre, il navera jammes avantage.—*Rokel*. Nous vous dioms qe Hughe Giffard, de qi nous avoms parle, en temps William Dermyn,⁷ nostre predecessour, fut persone enpersone, *ut supra*⁸; et coment qe vous parletz de sa privacion, *ut supra*, nous vous dioms qil suist par appelle a la Court de Rome, et par sentence illoeges rendu pur luy il fut restitut a sa possession, et murust persone enpersone; et sur debat de la voidaunce apres sa mort, qe William de Botevillein et sa femme firent, le temps passa, par quei Antoigne,⁹ nostre predecessour, come Ordiner, fist collacion a Johan de Kelsey, et de ceo luy fist induccion, de quel Johan, au temps de vostre recoverir, leglise fut plein, et unquore est, sanz ceo qe William Herlyng fut persone enpersone, [come nous ne conissons pas, de mesme leglise]¹⁰; prest, &c.;

A.D.
1345-6

¹ The words *par enfaunt* are omitted from C.

² C., soit.

³ H., volez.

⁴ L., C., and I., il.

⁵ L., C., and I., conu.

⁶ C., cel.

⁷ H., Ermyn; C., de Ermyn.

⁸ The words *ut supra* are omitted from C.

⁹ C., Antone.

¹⁰ The words between brackets are omitted from C.

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A.D.
1345-6.

demand judgment, &c.—*Mutlow*. William Herlyng was parson imparsonnee; ready, &c.—*Skipwith*. Even though he was parson imparsonnee, which we do not admit, if Hugh Giffard, who was deprived before he became so, had restitution of his estate, and died parson imparsonnee, as we have said, which restitution defeated the estate of William Herlyng, that will not prove your proposition, that is to say, the voidance by resignation, for when Hugh had restitution by judgment that defeated every mesne estate, so that William Herlyng never was parson in law.—*Thorpe*. You have pleaded in another manner, that is to say, that William Herlyng never was parson imparsonnee, and upon that you have tendered an averment, and therefore you have by your plea given us a traverse, and since you refuse the averment we demand judgment; but it would be otherwise if you had acknowledged such a fact as that of which you speak that William Herlyng was parson, &c., and had shown that his estate was defeated.—And the Court recorded against the Bishop that he traversed to the effect that this William Herlyng was never parson, and therefore he was asked whether he would accept the averment.—*Skipwith* imparled, and came back into Court, and said that it had never been their intention to traverse in such general terms to the effect that William Herlyng never was parson, but, since the Court recorded it in that manner, he alleged the restitution of Hugh Giffard who was deprived, as above, and said further *absque hoc* that William Herlyng was parson imparsonnee, as they had supposed; ready, &c.—And the other side said the contrary.

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[et demandoms jugement, &c.—*Mutl.* William Herlyn fut persone enpersone; prest, &c.]¹ — *Skip.* Tut fut il persone enpersone, come nous ne conissoms pas, si Hughe Giffard, qe devant luy fut prive, avoit restitucion de soun estat, et murust persone enpersone, come nous avoms dit, quel restitucion defist lestat William Herlyn, ceo ne provera pas vostre purpos, saver la voidaunce par resignement,² qar, quant Hughe fut restitut par jugement, il defist chesqun mene estat, issint qe William Herlyng en ley ne fut unqes persone.—*Thorpe.* Vous avetz plede par autre manere, saver, qe William Herlyn³ ne fut unqes persone enpersone, et sur ceo avetz tendu un averement, par quei vous nous avetz par vostre plee⁴ done le travers, et del houre qe vous refusetz⁵ laverement nous demandoms jugement; mes autre serreit si vous ussetz conu tiel fait come vous parletz qe W. Herlyn fut persone, &c., et ussetz moustre qe soun estat fut defet, &c.—Et la Court recorda vers Levesqe qil traversa qe celui William Herlyn ne fust unqes persone, par quei demande luy fut sil voleit laverement.—*Skip.* enparla, et revient, et dit qe ceo ne fut unqes lour entencion de traverser si generalment qe William Herlyn ne⁶ fut unqes persone, mes puis qe la Court recorda par la manere il⁷ alleggea⁸ restitucion de Hughe Giffard qe fut prive, *ut supra*, et dit outre saunz ceo qe William Herlyn fut persone enpersone come ils avoint suppose; prest, &c.—*Et alii e contra.*

A.D.
1345-6.

¹ The words between brackets are omitted from C.

² C., soun resignement.

³ Herlyn is from C. alone.

⁴ C., respons.

⁵ C., avietz refuse.

⁶ ne is omitted from C.

⁷ C., ils.

⁸ C., alleggerunt.

No. 8.

A.D.
1345-6.
Replevin.

(8.) § Replevin against a Prior¹ and one A.¹ The Prior denied the taking. A., as bailiff of the same Prior, made cognisance of the taking on the ground that the same beasts were *lerant and couchant* in the vill of A.,² and were driven into the vill of B.,² which two vills do not intercommon, and were taken in a place other than that mentioned in the plaint, and while they were in flight from that place, &c., he overtook them at the place at which it is supposed by the plaint that he took them.—*Skipwith*. He has confessed the taking on behalf of the person who has disavowed it; judgment whether he shall be admitted so to do.—*Blaykeston*. A bailiff shall not be prejudiced by his lord's disavowal.—*Thorpe*. The lord can avow for himself and his bailiff, and after avowry the bailiff will be out of Court; therefore it seems that

¹ For the names *see* p. 41, note 1. | ² For the names *see* p. 41, note 5.

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(8.)¹ § *Replegiari* vers un Priour et un A. Le Priour dedit la prise. A., come baillif mesme le Priour, conust la prise par tant qe mesmes les avers furent couchaunz² et levauntz en la ville de A., et furent chacetz en la ville de B., queux deux villes ne sentrecomument³ pas, et furent pris en autre lieu, et en defuant cele⁴ lieu, &c., il les atteigna au lieu ou par la plainte est suppose, &c.⁵—*Skip*. Il ad conu la prise pur⁶ celui qe lad desavowe; jugement sil serra resceu.—*Blaik*. Par desavowere de soun seignur le baillif ne serra pas atteint.—*Thorpe*. Le seignur poet avower pur luy et soun baillif, et apres avowere le baillif serra hors de Court; donques

A.D.
1345-6.*Replegiari.*
[Fitz.,
Retourne
des avers,
21.]

¹ From the four MSS., as above, but corrected by the record, *Placita de Banco*, Hil., 29 Edw. III., R^o 180. It there appears that the action was brought by William Dysny, knight, against the Prior of Royston, Ranulph de Crosseholme, Roger the Priourespynder of Royston, and Thomas Mariot of Ouresby (Owersby) in respect of a taking of 20 oxen, 20 cows, 200 sheep, 40 lambs, and 100 pigs, "in villa de Langouresby in quodam loco qui vocatur Francroft."

² H., and I., cochaunz.

³ C., entrecomument, instead of sentrecomument.

⁴ C., tiel.

⁵ According to the record, "Roger cognoscit prædictam captivonem, ut ballivus prædicti Prioris, dicit enim quod idem Prior est dominus tertie partis villæ de Langouresby, et habet communiam pasturæ in duabus partibus ejusdem villæ, et dicit quod prædictus Willelmus Dysny averia sua prædicta, quæ fuerunt levantia et cubantia in villa de Kynyrdby, fugavit de villa de

"Kynyrdby usque ad prædictam villam de Langouresby in quodam loco qui vocatur Nettelbuske, et ibi cum averiis prædictis depastus fuit communiam prædicti Prioris, attrahendo sibi communiam in prædicta villa de Langouresby, ubi prædictæ villæ de Kynyrdby et Langouresby inter se non communicant, et quia ipse invenit averia prædicta in prædicto loco de Nettelbuske, communiam prædicti Prioris depascentia et conculcantia, ipse, ut ballivus ipsius Prioris, voluit cepisse ibidem averia prædicta, et custodes averiorum illorum fugerunt cum averiis illis de loco illo usque ad prædictum locum de Francroft, et ipse recentor proseguendo, ut ballivus prædicti Prioris, cepit ibidem averia prædicta sicut ei bene licuit, &c. Et prædicti Ranulphus et Thomas Mariot venerunt ibidem in auxilium prædicti Rogeri ad prædictam captionem faciendam."

⁶ C., sur.

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the answer in its entirety is given to the lord; therefore the bailiff cannot justify that which his principal has disavowed; for, if it were otherwise, it would follow that the bailiff would have the return of cattle taken for the use of his principal when his principal has disavowed the taking, and that cannot be.—*WILLOUGHBY*. That is true; he will not have the return, but he can excuse himself in respect of the damages which it is your object to recover against him.—*Thorpe*. This suit is to be determined with reference to realty, and to that the bailiff cannot be a party without his principal, and his principal can never be made a party by aid-prayer after the disavowal.—*Willoughby*. That is true; he will never have aid of his principal, but still the bailiff will be able to excuse his tort, because after aid has been prayed, in a case in which the bailiff might expect aid, even though the principal should not appear, he will maintain the issue in order to excuse himself with regard to damages; and you will possibly be able to say that he took the beasts *de son tort demene*, and not for the cause assigned.—*Thorpe*. Such an issue might be had on a writ of Trespass, but never on a Replevin.—*Haveryngton*. We tell you that the plaintiff has land in both vills, and is lord of both vills, and by reason of his lands has had common of driving and driving back from one vill into the other, from time whereof there is no memory; and we do not admit that the two vills do not inter-common; judgment whether you can maintain the

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semble il qe tut le respons est done au seignur; par quei le baillif ne poet justifier ce qe soun mestre ad desavowe; qar, si autrement fut, il ensuereit qe le baillif avera retourne dun prise al oepe soun mestre quel soun mestre mesme ad desavowe, et ceo ne poet estre.—WILBY. Il est verite¹; il navera retourne,² mes il se poet excuser mesme des damages queles vous estes a recoverir vers luy.—*Thorpe*. Ceste suite est a terminer en la realte,³ et a ceo le baillif ne poet estre partie saunz soun mestre,⁴ et par eide prier soun mestre apres le desavowere ne serra jammes fait partie.—WILBY. Il est verite; il navera pas eide de luy, mes unqore le baillif excusera soun tort, qar apres eide prie en cas qe baillif avera eide, tut ne vint pas le mestre, il meyntendra lissue pur luy excuser des damages; et vous poetz dire par cas qil les prist de soun tort demene, et noun pas par tiel cause.—*Thorpe*. Tiel issue avereit homme en brief de Trans, mes en *Replegiari* jammes.—*Hav*. Nous vous dioms qe le pleintif ad terre en lune ville et en lautre, et est seignur del un ville et del autre, et par resoun de ses terres ad eu comune chace et rechace del un ville en lautre, de temps dount memore nest; et ne conissons pas qe les deux villes ne sentrecomument pas; jugement si lavowere poetz⁵ meyntener.⁶—Et

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¹ The words il est verite are omitted from C.

² C., Retourne navera il pas, instead of il navera retourne.

³ H., rialte.

⁴ C., seignur.

⁵ C., puissetz.

⁶ The plea was, according to the record, "Willelmus Dysny dicit quod predictus Rogerus captionem predictam justam cognoscere non potest, dicit enim quod ipse est dominus medietatis villæ de

"Kynyardby, et etiam quod ipse est dominus tertie partis prædictæ villæ de Langouresby, et habet in utraque villa dominicas terras suas, ad quas communia pertinet, et dicit quod ipse habet chaceam et rechaceam cum omnibus averiis tam per ipsum agistatis quam averiis suis propriis et hominum suorum a prædicta villa de Kynyardby usque ad prædictam villam de Langouresby, et quod ipse et omnes

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avowry.—And they were at a traverse on the custom. —And the bailiff was by judgment ousted from having aid of his principal, because his principal had disavowed the taking, and could have been a party if he had wished, and if he had afterwards been made party by aid-prayer, that would have been to give him the advantage of having the return of the beasts which he had lost by the disavowal, as is touched above.

Præcipe. (9.) § A *Præcipe* was brought in Cambridge. The tenant was essoined.—*Thorpe*, for the bailiff of the liberty, alleged that part of the tenements demanded was within the liberty, and part without, and prayed the advantage of the liberty with regard to the former part. And he said farther that the writ was abatable, and prayed further, on behalf of the bailiff, that his statement might be entered, because otherwise he would lose the advantage on a subsequent occasion.—*WILLOUGHBY*. You will not do so; you can well allege that when he appears.—*Grene*. Even if the tenant were here, and would allege it, the writ would be good enough, &c.

Avowry. (10.) § Avowry on a Prior, on the ground that he

Nos. 9, 10.

sur l'usage furent a travers.¹ Et le baillif par agarde fut ouste del eide de soun mestre, pur ceo qil ad desavowe la prise, et poait avoir este partie sil voleit, et, si par eide prier il fut fait partie, serreit de luy doner l'avantage daver retourn quel par le desavowere il ad perdu, *ut supra tangitur*.²

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(9.)³ § *Præcipe* porte en Cauntebrige.⁵ Le tenant fut essone.—*Thorpe*, pur le baillif de la fraunchise, alleggea qe parcelle des tenementz demandetz fut⁶ en la fraunchise, et parcelle de hors, et pria l'avantage⁷ de la parcelle, &c. Et dit outre qe le brief fut abatable, et pria outre pur luy qe soun dit fut entre, qar autrement il perdra l'avantage autrefoith. —*WILBY*. Noun ferrez; vous lalleggeretz bien quant il vendra.—*Grene*. Tut fut le⁸ tenant cy, et il lalleggeroit, le brief serreit assetz bon, &c.

Præcipe.⁴

(10.)⁹ § *Avowere* sur un Priour, pur ceo qil

Avowere.
[Fitz.,
Aroure,
123.]

“antecessores sui, et omnes tenentes
“tumentorum prædictorum, a tem-
“pore quo non extat memoria,
“habuerunt chaceam et rechaceam
“in forma prædicta, et dicit quod
“ipse prædictis die et anno
“fugavit averia sua prædicta a
“prædicta villa de Kynyardby
“usque ad prædictum locum de
“Francroft, et ibi depastus fuit
“communiam suam sicut ei licuit.
“Et hoc paratus est verificare
“unde petit iudicium.”

¹ According to the record issue was joined on the following replication:—“Rogerus dicit quod prædictus Willelmus et antecessores sui et alii tenentes terras et tementa sua prædicta non habuerunt chaceam et rechaceam a prædicta villa de Kynyardby usque ad prædictam villam de Langouresby a tempore quo non extat

“memoria, sicut prædictus Willelmus Dysny superius asserit.”

² The award of the *Venire* appears upon the roll, but nothing beyond, and nothing about the aid-prayer.

³ From the four MSS., as above.

⁴ The marginal note is from H. alone.

⁵ L., la Chauncellerie; C., Chauncerie.

⁶ C., furent.

⁷ C., la franchise.

⁸ C., il.

⁹ From the four MSS., as above, but corrected by the record, *Placita de Banco*, Hil., 20 Edw. III., R^o 65. It there appears that the action was brought by the Prior “de Novo Loco juxta Guldeforde” (of Newark, or New Place) against Richard de Wyndesore and others in respect of a taking of 10 oxen, 5 horses and 175 sheep.

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A.D. held of the defendant by homage, fealty, &c., and
1345-6. heriot. And the defendant avowed for the homage
and the fealty in arrear, to wit, so many beasts for
the homage and so many for the fealty.—*Pole*. We
tell you that before the taking was effected we
tendered to you our homage at such a place, and
have always been ready, and still are, to do homage ;

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tient del defendant¹ par homage feaute,² &c., et heriete. Et pur lomage et la feaute³ arrere il avowa, saver, tauntz des bestes pur lomage, et tauntz pur la feaute.³—*Pole.* Nous vous dioms qe avant la prise fait nous vous tendimes nostre homage a tiel lieu, et tut temps avoms este prest, et unquore sumes; jugement, &c.⁴—

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¹ MSS. of Y.B., pleintif.

² H., foialte

³ foialte. The avowry was, according to the record, on behalf of Richard and the others, "quod predictus Prior tenet de eo manerium de Westebedefunte in Stanewelle, cum pertinentiis, . . . per servitium unius feodi militis, videlicet, per homagium, fidelitatem, et ad scutagium domini Regis quadraginta solidorum cum acciderit quadraginta solidos, et ad plus plus, &c., et per ad minus minus, &c., et per servitium sex solidorum et octo denariorum solvendum qualibet vicesima quarta septimana pro warda Castri de Wyndesore, et faciendi relevium post quamlibet vacationem Prioratus predicti, sive per mortem Prioris, &c., vacaverit, seu cessionem, vel aliquo alio modo, videlicet centum solidos pro relevio, &c., et pro herietto post mortem vel cessionem cujuslibet Prioris Prioratus predicti melius animal, &c., de quibus quidem servitiis quidam Ricardus de Wyndesore, pater predicti Ricardi, cujus heres ipse est, fuit seiscitus per manus Walteri quondam Prioris, &c., predecessoris, &c., ut per manus veri tenentis, &c., videlicet de predictis homagio et fidelitate, &c., ut de feodo, &c., et de aliis servitiis in dominio suo ut de feodo et jura. Et quia homa-

gium et fidelitas predicti Prioris qui nunc, &c., et etiam predictus redditus per tres terminos, &c., et etiam centum solidi post cessionem Rogeri nuper Prioris &c., predecessoris, &c., pro relevio, &c., et melius animal pro herietto, &c., eidem Ricardo a retro fuerunt ante diem captivonis, &c., cepit ipse boves et equos predictos pro homagio ipsius Prioris qui nunc, &c., et etiam pro fidelitate ejusdem Prioris eidem Ricardo a retro existente cepit ipse bidentes predictos sicut ei bene licuit, &c."

⁴ The plea was, according to the record, "(non cognoscendo seisi- nam predicti Ricardi patris ipsius Ricardi de Wyndesore de servitiis predictis de manerio predicto, nec quod manerium illud teneatur de ipso Ricardo de Wyndesore per relevium et heriettum, sed protestando se semper velle verificare contrarium, si ad hoc admitti debeat) dicit quod manerium illud tenetur de ipso Ricardo per homagium, fidelitatem, et ad scutagium domini Regis quadraginta solidorum cum acciderit quadraginta solidos, et servitium sex solidorum et octo denariorum solvendum qualibet vicesima quarta septimana pro warda Castri de Wyndesore pro omnibus servitiis tantum. Et dicit quod idem Ricardus de

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judgment, &c.—*Richemunde*. You shall not be admitted to say that you have always been ready, for we demanded the homage at such a place, and you refused to do it; and, moreover, the plaintiff appears in Court by attorney, so that he cannot now say that he has been always ready to do homage; it is not an answer.—*HILLARY*. Then is it the fact that he tendered his homage to you before the taking of the beasts?—*Thorpe*. It is not an answer to say that he tendered his homage without saying that he was always ready.—*SHARSHULLE*. If you will admit that at one time he tendered you his homage, and you refused it, and will say that after that time you demanded his homage and he refused it, and that before the day of the taking, whereby a new cause of distress accrued to you, you can well do so.—*Richemunde*. He did not tender before the taking; ready, &c.—And the other side said the contrary.

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Rich. A dire qe tut temps aviez este prest ne serretz resceu, qar nous le demandames a tiel lieu, et vous le viastes¹ de fere; et unqore le pleintif² est par attourne en Court, issint qil ne poet ore³ dire qe tut temps fut prest; il nest pas respons. [—*HILL.* Dounqes est il issint qil vous tendist soun homage avant la prise?—*Thorpe.* A dire qil tendy soun homage saunz dire qe tut temps prest il nest pas respons,]⁴ et nous avoms prove par nostre plee qil ne fut pas tut temps prest.—*SCHAR.* Si vous voletz conustre⁵ qe a un temps il vous tendi soun homage, et vous le refusastes, et puis cel temps vous le⁶ demandastes soun homage et il refusa, et ceo devant le⁶ jour de la prise, par quei novel cause de destresse vous acrust, vous le poietz bien faire.—*Rich.* Il ne tendist pas avant la prise; prest, &c.⁷—*Et alii e contra.*

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1345-6.

"Wyndesore captionem illam pro
"homagio et fidelitate sua justam
"advocare non potest, dicit enim
"quod ipse modo ante diem
"captionis, &c., et similiter post,
"paratus est et fuit ei facere
"homagium suum et fidelitatem.
"Et dicit quod ipse, diu ante diem
"captionis, videlicet die Lunæ
"proxima post Festum Sancti
"Jacobi Apostoli anno regni
"domini Regis nunc Angliæ decimo
"octavo apud Guldeforde in Comi-
"tatu Surreie obtulit eidem
"Ricardo de Wyndesore homagium
"suum et fidelitatem pro manerio
"prædicto. Et hoc paratus est
"verificare, &c., unde petit judi-
"cium et damna sibi adjudicari,
"&c."

¹ H., I., and C., weyvastes.² MSS. of Y.B., defendant.³ ore is omitted from C.⁴ The words between brackets are omitted from C.⁵ L., and C., moustrer.⁶ le is omitted from C.⁷ The replication was, according to the record, "Ricardus (non cognoscendo prædictum Priorem tenere de eo manerium prædictum per minora servitia quam ipse superius advocavit) dicit quod ipse ab advocare suo prædicto per hoc excludi non debet, quia dicit quod prædictus Prior prædicto die Lunæ apud Guldeforde non obtulit ei homagium suum nec fidelitatem prout ipse superius allegavit." Issue was joined upon this.

The verdict was "quod prædictus Prior obtulit prædicto Ricardo homagium et fidelitatem suam ante præfatum diem captionis prædictæ, sicut idem Prior superius allegavit. Et dicunt quod idem Prior sustinuit damna occasione detentionis averiorum prædictorum ad valentiam sexa-

Nos. 11, 12.

A.D.
1345-6.
Note.

(11.) § Note that an heir female demanded on the seisin of her ancestor, and the existence of issue of her brother still living was alleged in bar of the action.—*Richemunde*. There is no such person living; ready, &c.—*Grene*. He is living at such a place in such a county; ready, &c.—And the other side said the contrary.—And the issue was accepted gratis, &c.

Avowry.

(12.)¹ § Avowry on a Prior who was plaintiff on the ground that his predecessor held of the avowant's ancestor by the services of one knight's fee, and that, on a dispute between them concerning the services, the Prior, with the consent of his Convent, granted, for himself and his successors, by his deed, that they would hold of the avowant's ancestor and his heirs by the same services, and, in addition to them, by the service of paying 100 shillings for a relief after the death, cession, or any other voidance of every Prior. And the avowant alleged the seisin of the services and of the relief after the death of two Priors, &c. And because the relief after the death of the last Prior was in arrear he avowed.—*Grene*. He has founded his avowry on two different titles, one the deed of our predecessor, the other as for rent service; judgment of the avowry, for, even though we would deny the deed, that would not make an issue, because the tenancy together with the seisin alleged, &c., would be a sufficiently good title.—WILLOUGHBY. He cannot have any other avowry on such facts.—*Grene*. Moreover, we cannot know whether he avows for rent service or rent charge.—WILLOUGHBY. Yes, you can; he avows upon you as upon his very tenant, and without a specialty he will never be able to avow for a relief upon a

¹ This is a second report or continuation of Y.B., Mich., 19 Edw. III. No. 44. pp 394-398 (Robert, Prior of Christchurch, v. Robert Fitz Payn and another). The record (Mich., 19 Edw. III. B^o 414, d.) is there cited.

Nos. 11, 12.

(11.)¹ § *Nota* qe heir femele² demanda de seisine auncestrele, et lestre lissue soun frere fut allegge en plein vie en barre daccion.—*Rich.* Il ny ad nul tiel en plein vie; prest, &c.—*Grene.* Il est en plein vie a tiel lieu en tiel counte³; prest, &c.—*Et alii e contra.*—Et lissue resceu *gratis*, &c.

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1345-6.
Nota.

(12.)¹ § *Avowere* sur Priour pleintif par la resoun qe soun predecessour tient del auncestre lavowant par les services dun fee de chivaler, et sur debat des services entre eux le Priour, del assent soun Covent, graunta, pur luy et ces successors, par soun fait, a tener de luy et de ses heirs par mesmes les services, et, estre cella, de faire⁴ c. s. pur relief apres la mort, cessioun, ou gecunqe autre⁵ voidaunce de chesqun⁶ Priour. Et lia seisine des services et del relief apres la mort de deux Priours, &c. Et pur ceo qe le relief apres la mort le darrein Priour fut arrere il avowa.—*Grene.* Il ad foundu savowere sur deux titles, un par le fet nostre predecessour, autre come de rente service; jugement del avowere, qar, tut vodroms dedire le fet, ceo ne fra⁷ pas issue, pur ceo qe la tenance ove la⁸ seisine lie, &c., serreit assetz suffisaunt title.⁹—*WILBY.* Il ne poet autre avowere aver sur tiel fet.—*Grene.* Et nous ne poms saver le quel il avowe pur rente service ou rente charge.—*WILBY.* Si poietz; il avowe sur vous come sur soun verrei tenant, et saunz especialte sur homme de

Avowere.
[*Fitz.,*
Avowere,
124.]

“ginta librarum.”

Judgment was thereupon given for the Prior to recover the damages, and he had execution by *elegit*.

“Postea dominus Rex mandavit
“Johanni de Stonore, Justiciario,
“&c., per breve suum quod mitteret
“prædicta recordum et processum
“coram ipso Rege in Cancellaria.
“Et mittuntur per J. de Aultone,
“&c.”

¹ From the four MSS., as above.

² C., femelle.

³ C., countee.

⁴ The words de faire are from H. alone.

⁵ autre is omitted from C.

⁶ C., chesquny.

⁷ C., fut; I., fust.

⁸ C., sa.

⁹ title is omitted from C.

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A.D. 1345-6. person of religion; therefore answer.—*Grene*. You see plainly how he avows in virtue of a specialty in which there is no clause of distress; judgment of the avowry.—This exception was not allowed.

Trespass. (13.) § An Abbot¹ brought a writ of Trespass in respect of trees cut.—*Skipwith*. We tell you that your predecessor, by this deed, leased to us² the manor of B.,² with the appurtenances, of which manor the wood in which, &c., is parcel, for term of our life, and so it is our freehold; judgment whether such a writ lies against us.—

¹ For the names see p. 53, note 4. | ² For the names, &c., see p. 53, note 7.

No. 13.

religioun ja¹ navowera² pas pur relief; par quei responez.—*Grene.* Vous veietz bien coment il avowe par force dune especialte en quel il ny ad nule clause de destresse; jugement del avowere.—*Non allocatur.*³

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1345-6.

(13.)⁴ § Un Abbe porta brief de Trans des arbres Trans. copes.⁵—*Skip.* Nous vous dioms qe vostre predeces-sour, par ceo fait, nous lessa le maner de B. ove les appurtenances,⁶ de quel le boys ou, &c., est parcele, a terme de nostre vie, et issi est ceo nostre franc tenement; jugement si tiel brief vers nous gise.⁷—

¹ C., il.

² H., and I., navendra.

³ In C. alone there is a reference to the report in the previous Michaelmas term.

⁴ From the four MSS., as above, but corrected by the record *Placita de Banco*, Hil., 20 Edw. III., R^o 157, d. It there appears that the action was brought by the Abbot of Vaudey ("de valle Dei") against Stephen Cosyn and John his son.

⁵ C., coupes. The declaration was, according to the record, "quod prædicti Stephanus et Johannes arbores ipsius Abbatis, videlicet, centum et sexaginta quercus, et centum et sexaginta fraxinos, apud Birtone nuper crescentes succiderunt et asportaverunt."

⁶ C., appurtinances.

⁷ The plea was, according to the record, "quod quidam Abbas de valle Dei, prædecessor istius Abbatis, et ejusdem loci Conventus concesserunt et dimiserunt eidem [Stephano] et cuidam Johanni fratri suo jam defuncto manerium de Birtone, cum pertinentiis, per nomen grangie

sum de Birtone juxta Corby, cum omnibus terris arrabilibus, pratis, pascuis, et pasturis separabilibus, et omnibus aliis commoditatibus viis, semitis, marleis, warennis, chacels, cum libero ingressu et egressu ad omnia supradicta, et cum omnibus aliis juribus et commoditatibus ad eandem grangiam aliquo modo spectantibus, habendum et tenendum præfatis Stephano et Johanni fratri suo ad totam vitam suam, et alteri eorum qui supervixerit, per quam dimissionem iidem Stephanus et Johannes frater ejus fuerunt seisis de manerio prædicto, et idem Stephanus adhuc seisitus est de eodem manerio, cum omnibus juribus suis et pertinentiis, ut de libero tenemento suo. Et profert hic in Curia quoddam scriptum indentatum sub nomine prædictorum. Abbatis prædecessoris, &c., et Conventus, quod dimissionem prædictam testatur in forma prædicta. Et petit judicium si prædictus Abbas nunc per breve istud de Transgressionem actionem versus eum habere debeat, &c."

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1345-6.

Moubray would have averred that they were his trees, &c.—And he was not allowed to do so.—Therefore he said that the Abbot's predecessor died seised of the same manor, after whose death the Abbot found his church seised, and so it is his freehold.—*Skipwith*. Inasmuch as you do not deny the lease made by your predecessor, as above, you shall not be admitted to say that he died seised without showing how.—And this exception was not allowed.—Therefore *Skipwith* said that by virtue of the conveyance the defendant continued his estate, *absque hoc* that the predecessor died seised, and so it is the defendant's freehold; ready, &c.—*Moubray*. Our predecessor died seised, and so it is our freehold; ready, &c.—And the other side said the contrary.

Continuation.

(14.)¹ § *Notton*. They have said that the

¹ This report is in continuation of Y.B., Easter, 16 Edw. III., No. 31. and Trin., 16 Edw. III., No. 57. The case was one of *Scire facias* on

Fine brought by Thomas, son and heir of Peter de Breuse or Braose, against John son and heir of John de Moubray, and others.

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Moubray voleit aver avere qe ses arbres, &c.—*Et non potuit*.—Par quei il dit qe soun predecessour murust seisi de mesme le maner, apres qi mort il trova sa eglise seisi, et issi est ceo soun franc tenement.¹—*Skip*. Desicome vous ne deditetz pas le lees fet par vostre predecessour, *ut supra*, a dire qil murust² seisi saunz moustren coment vous ne serretz pas resceu.—*Et non allocatur*.—Par quei il dit qe par force du lees il continua soun estat, saunz ceo qe le predecessour murust³ seisi, et issi soun franc tenement; prest, &c.⁴—*Moubray*. Nostre predecessour murust² seisi, et issint nostre franc tenement; prest, &c.—*Et alii e contra*.⁵

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1345-6.

(14.)⁶ § *Nottone*. Ils ount parle qe le Roi nient *Residuum*.⁷

¹ The replication was, according to the record, "Abbas. non cognoscendo quod prædicti Stephanus et Johannes frater ejus unquam aliquid habuerunt in manerio prædicto virtute dimissionis prædictæ, dicit quod locus ubi ipse supponit prædictam succisionem fieri est quidam boscus qui vocatur Northwode, et dicit quod quidam Willelmus quondam Abbas, &c., ultimus prædecessor suus, fuit seiscitus de bosco illo ut de jure ecclesiæ suæ beatæ Mariæ de valle Dei et inde obiit seiscitus et quod ipse, post mortem ipsius Abbatis, invenit ecclesiam suam prædictam seiscitam de bosco prædicto, et quod ipse adhuc inde seiscitus est ut de jure ecclesiæ suæ prædictæ. Et hoc paratus est verificare. Et petit judicium si prædicti Stephanus et Johannes de transgressione prædicta se excusare possint, &c."

² C., muruyt.

³ *Et* is omitted from C.

⁴ The rejoinder was, according to the record, "quod ipse Stephanus

"et Johannes frater ejus, virtute dimissionis prædictæ, de prædicto manerio de Birtone, cum pertinentiis, et etiam de prædicto bosco, ut de parcella manerii illius seisciti fuerunt, et quod ipse Stephanus adhuc de prædicto manerio, et etiam de prædicto bosco, ut de parcella ejusdem manerii, seiscitus est ut de libero tenemento suo, absque hoc quod prædictus Abbas inde seiscitus est ut de libero tenemento, sicut idem Abbas superius asserit." It was upon this rejoinder that issue was joined.

⁵ The words *Et alii e contra* are from C. alone. The award of the *Venire* appears on the roll, but nothing further.

⁶ From the four MSS., as above. The record is among the *Placita de Banco*, Easter, 16 Edw. III. R^o 328, and is printed in Appendix C. to the volume of Year Books including that term, pp. 293-308.

⁷ The marginal note in L. is *Proces*.

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1345-6.

King was unwilling that the barony¹ should be dismembered, of which barony the tenements in respect of which we demand execution are parcel, and also that the King ordained, after submission of the parties to his ordinance, that these lands were to remain in the possession of William son of William de Breuse, and that he, their ancestor, should make over other lands of the same value to the person who was party to the fine, &c.; and they show nothing of the King's ordinance, nor of the submission, which matters fall to be proved by record and specialty, but the indenture which they produce in order to prevent execution supposes an agreement to have been made between the parties on the intervention of friends, and therefore they cannot take advantage of it. But whereas they say that Richard de Breuse took certain manors in exchange and to the same value, to hold to him and the heirs of his body begotten, and, if he should die without such heirs, to Peter, Thomas's ancestor, and the heirs of his body, whose heir Thomas is, supposing the limitation thereby to have been in the same manner as that of the tenements in respect of which we demand execution, and alleging that, in consideration of that taking of an estate to the value, &c., Richard de Breuse released all his right in the tenements by the deed of which they have made *profert* to William their ancestor, of which tenements we demand execution, and alleging that Peter our ancestor put his seal to that release, and they have conveyed the same tenements to Thomas, the present demandant, by virtue of the exchange, and have demanded judgment whether contrary to the exchange, in virtue of which he is seised of other lands, he ought to have execution. And in answer to that we have said and shown, as to all the manors except the manor of

¹ Of Bramber. See Y.B., Easter, 16 Edw. III., Part. I. Appendix C.

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voillaunt la baronie estre demembre, dount les tenementz sount parcele de quei nous demandoms execucion, et auxint qe par submissioun des parties le Roi ordeyna¹ qe ceux² terres duissent demurer, &c., et qe lour auncestre freit autres terres en value a celui qe fut³ partie a la fyne, &c.; et de lordinance le Roi ne la submissioun, quel chose chiet en recorde et en especialte, de ceo ils ne moustrent riens, mes lendenture quele ils mettent avant pour destourber execucion suppose un acorde estre fait entre les parties par amys entrevenantz, par quei de ceo ne pount ils prendre⁴ avantage. Mes la ou ils dient qe Richard Brewes prist certein maners en eschaunge et en value⁵ a luy et a les heirs de soun corps engendrez, et sil deviaist, &c., a Piers et les heirs de soun corps, &c., auncestre Thomas, qi heir il est, supposant qe ceo fut taille par mesme la manere come les tenementz dount nous demandoms execucion, et pur cele prise destat en value, &c., Richard Brewes dust aver relesse tut son dreit par le fet quel ils ount mys avant a William lour auncestre en les tenementz dount nous demandoms execucion et a cel relees Piers nostre auncestre duist aver mys soun seal, et ount conveie mesmes les tenementz en Thomas qore demande par force deschaunge,⁶ et ount demande jugement si encountre leschaunge⁷ dount il est seisi deive execucion avoir. Et a cella avoms nous dit et moustre, quant a toux les maners forpris le maner de Tuttebury,

A.D.
1345-6.¹ H., ordina; C., ordeigna.² C., celes.³ C., qest, instead of qe fut.⁴ C., perdre.⁵ The words et en value are omitted from I.⁶ C., des eschaunges.⁷ C., les eschaunges.

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Tetbury, that we hold by virtue of other fines and not to the value, as above. And, as to the manor of Tetbury, we have shown that William de Breuse, ancestor of John de Moubray, granted and confirmed that manor to Peter our father and to one Agnes, whom he was about to take to wife, to have and to hold to them and to the heirs of their bodies issuing, by force of which confirmation they were seised. And Agnes survived and died seised, and Thomas is in possession after her death, claiming in virtue of that second limitation, and not in virtue of the exchange as above, so that even though that be accounted an exchange to the value in lieu of the land exchanged (which it cannot be because an estate of such a nature as exchange requires cannot be taken by release), still, because Thomas is in possession of an estate different from that which was taken by Richard de Breuse, he would have an action, and therefore we have demanded judgment, and again do so, and we pray execution.—WILLOUGHBY. There are two points here—one that this cannot be an exchange—the other that, even though it were an exchange, your estate is different from that by exchange; therefore address yourself first to the one point—whether it can be said to be an exchange.—*Notton*. Exchanges are of such a nature that they must be equal, and that each must be a warrant for the other, and there must be transmutation of possession on both sides; but by a release, by which no right was vested, there could not be a limitation, and it is not proved that by that release any right vested or passed, for possibly the person who released had not any right, or possibly the person to whom

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que nous tenoms par force dautres¹ fynes, et noun pas en value, *ut supra*. Et quant au maner de Tuttebery nous avoms moustre² que William Brewes, auncestre Johan Moubray, granta et conferma cel maner a Piers nostre pierre et a une Agneys quel il fut a prendre a femme, a aver et tener a eux et les heirs de lour corps issauntz, par quel conferment ils furent seisiz. Et Agneys survesqui³ et murust⁴ seisi,⁵ apres qi mort Thomas est einz en clamant par celle secounde taille, et rienz par force deschaunge⁶ *ut supra*, issint⁷ que tut purreit il estre acompte⁸ eschaunge en value en lieu deschaunge,⁶ come il ne poet estre, qar par relees homme ne poet estat prendre come nature deschaunge demande, unquore, pur ceo que Thomas est einz dautre estat que ne fut pris par Richard Brewes, il avereit accion, par quei nous avoms demande jugement, et unquore fesoms, et prioms execucion.—WILBY. Cy⁹ sont deux pointz, un que ceo ne poet estre eschaunge, autre tut fut il eschaunge vostre estat est autre que par leschaunge¹⁰; par quei parletz primes al un point, sils purrout estre dit eschaunges.—Nottone. Eschaunges sont de tiel nature qils serrount owels, et chesqun garrant autre, et covient dune part et dautre aver transmutacion de possessioun; mes par relees, par quel nul dreit fut vestu, ne¹¹ poait estre taille, ne par quel relees nest pas prove que dreit vesti¹² ou passa, qar par cas celuy que relessa nul dreit navoit, ou par cas

A.D.
345-6.¹ C., des autres.² The words nous avoms moustre are omitted from H. and I.³ C., survesquit.⁴ C., muruyt.⁵ seisi is omitted from C.⁶ C., des eschaunges.⁷ C., et issint.⁸ All the MSS., except C., accepte.⁹ C., Si.¹⁰ C., les eschaunges.¹¹ C., ne ne.¹² vesti is omitted from C.

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1345-6.

the release was made was not seised, and so possibly the release was entirely void and can never be called an exchange, and such a release can never savour of the nature of an exchange.—HILLARY. As to exchanges, they need not be of equal value: for an acre of land can be exchanged for twenty librates of land, and if, after exchanges made, one releases warranty to another, the exchanges are not thereby defeated.—*Skipwith, ad idem.* No one concludes the matter completely by exchange unless because he has something else to the value, &c.; and whereas it has been said that where there is exchange there must be transmutation of possession on both sides, that is not so, for, if you have a rent in my land and I give you certain tenements for the release of the same rent, that is of the nature of an exchange, and yet there is no transmutation of possession except on one side; and in this matter also it is clearly shown that the person who released had right to the same tenements by virtue of the same fine of which they now demand execution, and by his release he extinguished that right which he could have had by execution, and in consideration of that release he took other lands, and that will be accounted as being to the same effect as an exchange.—*Grene.* If tenant in tail is disseised and releases his right, and in consideration of that release takes other land to hold to him and his heirs for ever, even though it so happens that his issue enters upon the same lands taken in that manner, he will, nevertheless, have an action of Formedon in respect of the land entailed, because his demand will be in virtue of the gift which is a title different from that derived through his ancestor; and if my father, being tenant by the

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celuy a qi il fut fait ne fut pas seisi, et issi par cas le relees tut voide ne poet jammes eschaunge estre dit, ne qe tiel relees purra savourer nature deschaunge.¹—HILL. En eschaunges il besoigne² pas qils soient³ dowele value; qar homme poet chaunger un acre de terre ove xx. liveretz⁴ de terre, et si apres les eschaunges⁵ lun relest la garrantie al autre les eschaunges⁶ par taunt ne sount pas defetes.—*Skip., ad idem.* Homme conclude mye tut sur eschaunge, mes pur ceo qil ad autre chose en value, &c.; et ou est parle qen eschaunge il bosoigne⁷ destre transmutacion de possession dune part et dautre, il nest pas issi, qar si vous eietz un rente en ma terre et jeo vous doune certainz tenementz pur releesser mesme la rente cest nature deschaunge, et⁸ si ny ad il mye transmutacion de possession forqe del une partie; et auxi en ceste matere il est bien moustre qe celui qe releessa il avoit dreit par force de mesme la fyne dount ils demandent ore execucion a mesmes les tenementz, et par soun relees il esteigna cel dreit quel il purreit aver eu par lexecucion, et pur cel relees il prist autres terres ceo serra accompte a mesme leffect come eschaunge.—*Grene.* Si tenant en taille soit disseisi, et relest soun dreit, et pur cele relees preigne autre terre a luy et ses heirs a toux jours, tut soit il issi qe soun issue entre en mesmes les terres pris en la manere, unquore il avera accion de⁷ Fourme de doun a la terre taille, pur ceo qil demande par force de doun qest autre title qe par my soun auncestre; et si moun pere tenant par la ley Dengleterre aliene

A.D.
1345-6.¹ C., des eschaunges.² C., bessoigne.³ All the MSS., except C., nient destre, instead of pas qils soient.⁴ C. is the only MS. which gives the word in full.⁵ All the MSS., except C., leschaunge.⁶ et is from C. alone.⁷ C., par.

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curtesy of England, alienes my mother's inheritance, or releases his right which is only for his own time, and takes land to hold to himself and his heirs for ever in consideration of that release, and I am seised of that land after his death through him, I shall, nevertheless, have an action of Mort d'Ancestor in respect of my mother's seisin; so also in this matter, even though the person who was party to the fine released, and took land in consideration of making that release, yet, even though I were seised of that land as his heir, since I claim nothing through him in this suit except by force of a remainder as a purchaser who is a stranger, I shall not be barred by law; and also, even though the remainder was by the agreement limited after the death of Richard, if he should die without issue, to Peter and the heirs of his body begotten, nevertheless, ~~since~~ after Richard's death, William Breuse, with whom the fee simple remained, granted and confirmed to Peter and one Agnes, whom Peter was to take to wife, and to the heirs of their bodies, and the wife had and held after the death of her husband by such colour, and Thomas has entered after her death, as son and heir, Thomas's estate will be adjudged to be for his advantage rather by the second limitation than by the first, and consequently, even though this was an exchange, since he is in possession of an estate other than by virtue of this agreement, he will not be barred.—*Thorpe*. We have asserted a continuance of estate in Peter, for we have said that Peter entered after the death of Richard, and continued that estate, and it is impossible that the wife who had nothing could take an estate by confirmation made to herself and her husband; and, inasmuch as you have not denied the continuance of estate in Peter, for you do not allege a divesting or a taking back of an estate other than that which we have admitted him to have had, you

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leritage ma mere, ou relest soun dreit qe nest forqe pur soun temps, et prent terre a luy et a ces heirs a touz jours¹ pur cel relees, de quel terre jeo su seisi apres sa mort par my luy, unqore javeray accion de² Mort dauncestre de la seisine ma mere; auxi de ceste part, tut relessa celuy qe fut partie a la fyne, et prist terre pur cel relees faire, tut fusse jeo seisi de cele terre come soun heir, del houre qe jeo cleyme rienz de luy en ceste suite mes par force dun remeindre come estraunge purchaceour, par ley jeo ne serra³ pas barre; et auxint tut fut le remeindre par la composicion taille, apres la mort Richard, sil deviaist saunz issue, a Piers et les heirs de soun corps engendrez, nepurqant, quant, apres la mort Richard, William Brewes, a qi le fee simple demura, granta et conferma a Piers et une Agneys, quel il fut a prendre en femme, et a les heirs de lour corps, et la femme out et tient apres la mort soun baron par tiel colour, apres qi mort Thomas est entre come fitz et heir, lestat Thomas serra plus toust ajugge en soun avantage par la secoude taille qe par la primere, et, *per consequens*, tut fut ceo eschaunge,⁴ del houre qil est einz dautre estat qe par force de cele composicion, il ne serra pas barre.—*Thorpe*. Nous avoms done continuance destat en Piers, qar nous avoms dit qe Piers apres la mort Richard entra, et cel estat continua, et il ne poet estre qe la femme qe rienz navoit, par conferment fait⁵ a luy et soun baron purreit estat prendre; et desicome vous navetz pas dedit la continuaunce en Piers, qar vous nallegez mye demise ne reprise dautre estat qe de cel quel nous avoms conu a luy, par quei en pledaunt vous avetz

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1345-6.

¹ The words a touz jours are omitted from C.

² H., and C., par.

³ C., serrai.

⁴ All the MSS., except C., change.

⁵ fait is from C. alone.

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1345-6.

have therefore in pleading stated matter which proves that Thomas's estate could not be by the second limitation, because his mother could not have anything by such release or confirmation.—*Skipwith*. There is neither law nor right which could give Thomas both lands.—And they were adjourned.

Dower.

(15.) § Dower. The husband's heir was vouched in the same county and in another county. And he warranted, and pleaded, and lost. Therefore judgment was given that the demandant should recover against the heir if he had anything in the same county, and, if not, against the tenant. And the demand had been previously extended by process on the *Cape ad valentiam*. A writ issued to the Sheriff to effect execution, and he returned that he had made livery to the value of the whole of her demand, except four librates of rent, out of the inheritance of the heir, and he had made livery of the four librates out of the land of the tenant.—*Grene*, for the demandant, said that the Sheriff had not made livery of the four librates of rent, and prayed an *Alias* writ of execution.—*Mutlow*, for the tenant, said that execution had been effected against him in accordance with the Sheriff's return, and prayed a writ of execution to the value to be directed to the Sheriff of the other county.—*WILLOUGHBY*. It would not be right that you should have that, unless execution had been effected against you. Now the demandant says that execution has not been effected, and it is right that she should be heard to say that, because she will not be ousted by the Sheriff's answer from having execution of her dower.—*Mutlow*. Suppose, on the other hand, that she has

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dit chose qe prove qe lestat Thomas ne purreit estre par la¹ secounde taille, pur ceo qe sa mere par tiel relees ou conferment rienz ne purreit aver.—*Skip.* Il ny ad ley ne resoun qe durreit a Thomas lune et luntre terre.—*Et adjornantur.*

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(15.)² § Dowere. Le heir³ le baron fut vouche en mesme le counte et en⁴ autre, qe garrauntist, et pleda, et perdist.⁵ Par quei fut agarde qe la demandante⁶ recoverast vers le heir³ sil eust riens⁷ en mesme le counte, et si noun vers le tenant. Et la demande devant fut extendu par proces sur *Cape ad valentiam*. Brief issit a Vicounte de faire execucion,⁸ qe retourna qil avoit livere la value de tut⁹ sa demande, sauf iiij.¹⁰ liveres de rente, del heritage le heir,³ et les iiij.¹⁰ liveres avoit il livere de la terre le tenant.—*Grene*, pur la demandante, dit qe le Vicounte navoit pas fait la livere de les iiij.¹⁰ liveres de rente, et pria *sicut alias*.—*Muttl.*, pur le tenant, dit qe execucion fut fait solonc ceo qe le Vicounte avoit retourne devers luy, et pria execucion de la value au Vicounte del autre counte.—*WILBY.* Cella nest pas resoun qe vous eietz, si execucion nust este fait devers vous. Ore dit la demandante qe execucion nest pas fait, et il est resoun qele soit escote a cella dire, qar par respons de Vicounte ele ne serra pas ouste¹¹ daver execucion de soun dowere.—*Muttl.* Mettetz areremayn qele eit execucion de

Dowere.
[Fitz.,
Recovere
en value,
4.]

¹ la is from H. alone.

² From the four MSS., as above.

³ C., leire, instead of le heir.

⁴ L., un.

⁵ H., perdi.

⁶ All the MSS., except C., le demandant, instead of la demandante.

⁷ riens is omitted from H. and C.

⁸ H., and C., dexecucion, instead of de faire execucion.

⁹ C., tote.

¹⁰ C., iiij.

¹¹ H., oste.

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execution of her dower against us, it would be contrary to what is right if we did not have over to the value; and, if she were listened to, she would by such an allegation oust us for ever from having over to the value, whereas possibly she has been satisfied in respect of her dower; and that would be a greater mischief than to grant us execution at our peril, because, if that execution were not carried out in accordance with what is right, it would be only a disseisin, in respect of which the heir could have a recovery by Assise; and, if averment were taken between us, we should possibly be delayed without cause.—WILLOUGHBY. An *Alias* writ has been awarded by our fellow-justices, and until that has been returned we will not speak further about the matter, &c.

Annuity.

(16.) § A writ of Annuity was brought against a vicar by the Prior of Coventry, who counted that, by Ordinary's ordinance on the making of the vicarage, the Ordinary ordained that the vicar should pay to the plaintiff one hundred shillings annually for oblations and obventions among the offerings which were wont to be offered on Sundays. And he made *profert* of the Ordinary's deed testifying that the Ordinary had admitted a vicar on the Prior's presentation in the manner agreed.—*Grene*. You see plainly how he

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soun dower vers nous, il¹ serreit countre resoun² si nous nussoms a la value; et par tiel alleggeaunce, si ele fut escote, ele nous oustera toux jours de la value, la ou par cas ele est servy de soun dower; et ceo serreit plus graunt³ meschief qe graunter⁴ a nous execucion a nostre peril, quel execucion, si ele fut noun resonablement servy,⁵ serreit forqe disseisine, de⁶ quei le heir⁷ purreit aver recoverir par Assise⁸; et, si averement fut pris entre nous, nous serroms delaye par cas saunz cause.—WILBY. Un *sicut alias* est⁹ agarde par noz compaignouns, et devant qe cel brief soit retourne nous voloms nient plus parler de la matere, &c.

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(16.)¹⁰ § Annuyte vers vikere par le Priour de Coventre¹¹ countant qe¹² par ordinaunce del Ordiner sur la fessaunce de la vikarie Lordiner ordeigna¹³ qe le viker paiereit a la persone pleintif c.s. annuelement pur oblacions, obvencions de les offrendes queux soleient estre offeretes le jour de dymenge.¹⁴ Et myst avant fait Dordiner tesmoignant qil avoit resceu vikere al presentement le Priour¹⁵ par la manere.¹⁶—Grene. Vous veietz bien coment il

Annuite
[Fitz.,
Annuite,
32.]

¹ C., ceo.

² C., ley.

³ C., grant.

⁴ C., granter.

⁵ H., and C., suy.

⁶ I., par.

⁷ C., leire, instead of le heir.

⁸ H., and I., Attaynt.

⁹ C., fut.

¹⁰ From the four MSS., as above, but corrected by the record, *Placita de Banco*, Hil., 20 Edw. III., R^o 107, d. It there appears that the action was brought by the Prior of Coventry against John de Holand, vicar of the church of the Holy Trinity of Coventry, in respect of arrears of an annuity of 100s.

¹¹ H., and I., un Priour, instead of le Priour de Coventre.

¹² C., coment.

¹³ H., ordina.

¹⁴ C., dimeigne.

¹⁵ L., and C., patroun.

¹⁶ The count or declaration was, according to the record, "quod quidam Rogerus nuper Episcopus Coventrensis et Lychefeldensis super ordinationem vicariæ prædictæ, recitando ipsum Episcopum ad præsentationem Prioris de Coventre qui tunc fuit et ejusdem loci Conventus admisisse quendam Ranulphum capellannum ad vicariam prædictam in vigilia Sancti Andreæ Apostoli

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A.D. demands the hundred shillings as in respect of offer-
1345 6. ings which are spiritual things, and therefore we do
not understand that the Court will take cognisance
of the matter.—WILLOUGHBY. Your answer would be

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demande les c.s. come des offrendes qe sont choses
espiritueles, par quei nentendoms mye qe la Court
voille conustre.—WILBY. Vostre respons serreit al

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“ anno regni Regis Henrici proavi
“ domini Regis nunc quadragesimo
“ nono, quæ quidem vicaria taxata
“ consistebat in oblationibus, ob-
“ ventionibus, decimis et proventi-
“ bus ejusdem ecclesiæ, &c., in
“ fructibus et proventibus capella-
“ rum ad eandem ecclesiam spectan-
“ tibus, videlicet Sanctæ Crucis et
“ Sancti Nicholai Coventriæ, Sancti
“ Jacobi Wylnhalie et Sancti Cædæ
“ Coundulune, exceptis decimis
“ bladi et feni, molendinorum
“ agnorum et lanæ, et omnibus
“ principalibus legatis redditibus et
“ servitiis omnium tenentium de
“ ecclesia memorata. quæ omnia
“ prædicta Prior et Conventus ante-
“ dicti perciperent, et prædictus
“ vicarius solveret præfatis Priori
“ et Conventui centum solidos
“ sterlingorum annuatim ad qua-
“ tuor anni terminos pro decimis
“ personalibus quæ inter oblationes
“ solebant diebus dominicis offerri,
“ et quod vicarius prædictus omnia
“ onera ecclesiæ memoratæ tam
“ Episcopalia quam Archidia-
“ conalia sustinebit. Et prædictus
“ Episcopus præsentationem de
“ eodem vicario factam simul cum
“ taxatione vicariæ prædictæ in
“ forma prædicta, &c., per factum
“ suum ratificavit et acceptavit,
“ salvando sibi et successoribus
“ suis Episcopis loci prædicti jura
“ Episcopalia et parochialia. Et
“ Decanus et Capitulum ecclesiæ
“ de Lychefelde qui tunc fuerunt,
“ recitantes factum prædictum
“ prædicti Rogeri Episcopi, &c.,
“ de præsentatione, admissione, et

“ taxatione supradictis, eas per
“ factum suum, auctoritate Cathe-
“ dralis ecclesiæ suæ prædictæ,
“ ratificaverunt et gratas habuer-
“ unt. De quibus quidem decimis
“ personalibus prædictus Ranul-
“ phus vicarius, &c., et successores
“ sui fuerunt seisisi, et similiter
“ iste Johannes de Holand nunc
“ vicarius, &c., seisisus est de
“ eisdem decimis virtute ordina-
“ tionis supradictæ, et de quo
“ quidem annuo redditu quidam
“ Willelmus quondam Prior, &c.,
“ prædecessor, &c., fuit seisisus per
“ manus prædicti Ranulphi tunc
“ vicarii, &c., ad festa Natalis
“ Domini, Paschæ, et Nativitatis
“ Sancti Johannis Baptistæ, et
“ Sancti Michaelis, per æquales
“ portiones solvendo. Et prædictus
“ Willelmus Prior et successores
“ sui Priores fuerunt seisisi de
“ eodem annuo redditu per manus
“ prædicti Ranulphi et successorum
“ suorum vicariorum ecclesiæ præ-
“ dictæ usque septem annos ante
“ diem impetrationis brevis sui
“ quod prædictus
“ annuus redditus eidem Priori
“ nunc est subtractus, unde dicit
“ quod deterioratus est et damnum
“ habet ad valentiam centum
“ librarum. Et inde producit
“ sectam, &c. Et profert hic in
“ Curia tam literas prædicti Rogeri
“ Episcopi quam literas prædic-
“ torum Decani et Capituli quæ
“ prædictas præsentationem ad-
“ missionem, taxationem, ratifi-
“ cationem, et confirmationem
“ testantur in forma prædicta, &c.”

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to the action, and the Ordinary's ordinance made by deed is a lay contract; and, even though there were only three half-pence offered, he would still have the hundred shillings.—*STONORE*. It will be necessary to see who is to have the power of appointing the vicar.—*Grene*. We will speak of that afterwards, but we demand judgment of the count, because he has not counted on what day the grant was made.—*SHARSHULLE*. He has counted that it was when the ordinance was made with respect to the vicarage, and we understand that the grant was made at that time; therefore answer.—*Grene*. Judgment of the writ, because you see plainly that he demands this annuity on a composition settled by the Ordinary between parson and vicar, so that he has to deraign this annuity as parson, and he is not described as parson in the writ; judgment of the writ.—*SHARSHULLE*. Although he demands on an ordinance made between parson and vicar, his purpose is not to recover this annuity by reason of his being parson, because the submission to the Ordinary and the Ordinary's ordinance are between the Prior and the vicar; therefore he will not bring his writ by any other description than that of Prior; and therefore answer.—*Grene* prayed aid of the Ordinary, and of the Prior who was plaintiff, and of the convent of Coventry, in whom the right of patronage reposes, &c.—And by judgment he had aid of the Ordinary, and of the Prior, &c.¹

¹ For a continuation of the report see below Y.B., Easter, 20 Edw. III., No. 68.

No. 16.

accion, et lordinaunce Lordiner par fait est ley contracte; et mesqil ny navoint qe iij mailles¹ offertes unqore il avereit les c.s.—STON. Il fait bien a regarder qi purra faire viker.—GRENE. De ceo parleroms apres, mes nous demandoms jugement de counte de ceo qil nad mye counte a quel jour le grant se fist.—SCHAR. Il ad counte qe quant lordinaunce se fist de la vikarie, et a cel temps entendoms nous qe le grant se fist; par quei responez.—GRENE. Jugement de brief, qar vous veietz bien coment qil demande ceste annuite sur une composicion taille par Ordiner entre persone et vikere, issint qil est a derener ceste annuite come persone, et il nest pas nome persone el² brief; jugement de brief.—SCHAR. Coment qil demande sur lordinaunce faite entre persone et vicare,³ il nest pas a recoverir ceo cy par cause de sa personage, qar la submissioun et lordinaunce del Ordiner⁴ est entre le Priour et le viker; par quei par autre noun qe par noun de Priour il ne portera pas soun brief; et pur ceo⁵ responez.—GRENE pria eide del Ordiner,⁴ et le Priour qe fut pleintif,⁶ et Covent de Coventre, en queux le dreit de patronage demurt, &c.—*Et habuit* par agard de le Ordeigner et Priour,⁷ &c.⁸

A.D.
1345-6.¹ C., oboles.² All the MSS., except C., en le.³ All the MSS., except H., patron.⁴ C., ordeigner.⁵ C., par quei, instead of et pur ceo.⁶ The words qe fut pleintif are omitted from C.⁷ The words de le Ordeigner et Priour are from C. alone.⁸ On the roll the aid-prayer immediately follows the count or declaration:—"Et Johannes dicit quod ipse est vica-

rius ecclesiæ prædictæ et tenet

eam ex patronatu Prioris de

Coventre, et quod ipse invenit

vicariam suam prædictam ex-

oneratum de annuo redditu

prædicto, unde dicit quod ipse

non potest præfate Priori sine

Priore de Coventre, vicariæ

prædictæ patrono, et Rogero

Episcopo Conventriensi et Liche-

feldensi, loci illius Ordinario

inde respondere. Et petit auxi-

lium de eis, &c."

The Prior, however, counter-pleaded the aid-prayer, as follows:

No. 17.

A.D.
1345-6.
Dower.

(17.) § Dower. The tenant vouched the husband's heir (who was in wardship) in the same county, &c. The voucher was counterpleaded by the guardian, who appeared, on the ground that there were other guardians who were not named. Thereupon they were at issue between them, that is to say, to the effect that the others had nothing in the wardship. The

—"dicit quod prædictus vicarius
"auxilium habere non debet in
"hac parte, quia dicit quod præ-
"dictus Willelmus quondam Prior,
"prædecessor, &c., fuit de eodem
"annuo redditu seisisus post
"compositionem prædictam, et
"quod ipse est actor et pars
"erga dictum vicarium in placito
"isto, unde non intendit quod
"prædictus vicarius auxilium de
"ipso in hoc casu habere debeat,
"&c."

According to the roll aid was granted in the following form:—
"Et, quia visum est Curie quod
"auxilium in hoc casu est conce-
"dendum, ideo habeat auxilium
"de eis, &c."

According to the roll the prayees in aid did not appear "per quod
"consideratum tunc fuit quod
"prædictus Johannes responderet
"sine, &c."

The vicar then pleaded "quod
"ubi prædictus Prior superius
"supponit quod quidam Willelmus
"quondam Prior, &c., prædecessor,
"&c., et successores sui Priores,
"&c., fuerunt seisiti de prædicto
"annuo redditu per manus præ-
"dicti Ranulphi et successorum
"suorum vicariorum ecclesie præ-
"dictæ, nec prædictus Willelmus
"quondam Prior nec successores
"sui fuerunt seisiti de annuo
"redditu prædicto per manus
"prædicti Ranulphi vel succes-
"sorum suorum sicut prædictus

"Prior nunc superius supponit:
"Et hoc paratus est verificare, et
"unde petit iudicium, &c."

The Prior replied "quod præ-
"dictus Willelmus quondam Prior,
"&c., fuit seisitus de prædicto annuo
"redditu per manus prædicti Ra-
"nulphi secundum ordinationem
"et concessionem prædictas, prout
"ipse superius versus eum narra-
"vit. Et hoc petit quod inquiretur
"per patriam." Issue was joined
upon this.

A verdict was taken at Nisi prius upon default of the vicar:—
"Postea . . . venit præ-
"dictus Prior per attornatum suum
"prædictum, et similiter juratores
"ibidem veniunt, et prædictus
"Johannes vicarius, &c., non venit.
"Ideo Jurata capiatur versus eum
"per defaultam, &c. Juratores
"dicunt super sacramentum suum
"quod prædictus Willelmus quon-
"dam Prior, prædecessor, &c., fuit
"seisitus de prædicto annuo red-
"ditu centum solidorum per manus
"prædicti Ranulphi quondam
"vicarii, &c., prædecessoris, &c., vir-
"tute ordinationis et compositionis
"prædictarum. Juratores, quæsi-
"ti quædamna Prior qui nunc est sus-
"tinuit occasione detentionis annui
"redditus prædicti, dicunt quod ad
"damna sexaginta librarum."

Judgment was given accordingly
"quod prædictus Prior qui nunc
"est recuperet prædictum annum
"redditum suum centum solido-

No. 17.

(17.)¹ § Dowere. Le tenant voucha le heir² le baron en mesme le countee en³ la garde, &c.⁴ Le voucher fut countreplede par⁵ les gardeins, qe vindrent, de ceo qils y avoient autres gardeins, nient nommes, sur quei entre eux ils furent a issue, saver qe les autres navoient rienz en la garde.⁶ La

A.D.
1345-6.Dowere.
[Fitz.,
Jugement,
175.]

"rum, et similiter damna sua
"prædicta, et prædictus Johannes
"vicarius, &c., in misericordia, &c."
"Et postea prædictus Prior
"remitterit damna, &c."

¹ From the four MSS., as above, but corrected by the record, *Placita de Banco*, Hil., 20 Edw. III., R^o 376, d. It there appears that the action of Dower was brought by Agnes late wife of William de Gorges against Robert atte Weye, in respect of a third part of 28 shillings of rent in Blackauetone (Blackawton, Devon).

² C., leire, instead of le heir.

³ The words en mesme le countee are from C. alone.

⁴ According to the record the tenant vouched William de Gorges son and heir of William de Gorges "cujus terræ, &c., sunt in custodia Hugonis de Courtenay. Comitis Devonie."

⁵ H., and I., et.

⁶ The counterplea of voucher was, according to the record. "Comes dicit quod, "cum prædictus Robertus in vocare "suo ad warrantum supponit ipsum "Comitem integre tenere omnia "terras et tenementa prædicti "heredis quæ eidem heredi post "mortem prædicti Willelmi de "Gorges descenderunt in custodia "ratione minoris ætatis heredis "prædicti, quidam Johannes de "Ferrariis, chivaler, habet in "custodia sua, de hereditate præ-

"dicti heredissex solidatas redditus
"et redditum unius clavi gariophili
"et unius rosæ in Blake Auetone,
"et quidam Walterus Abbas de
"Abbodesbury habet in custodia,
"de hereditate prædicti heredis,
"unam carucatam terræ et sex
"solidatas redditus et redditum
"unius clavi gariophili in Ship-
"tone in Comitatu Dorsetæ, &c.,
"et quidam Laurentius Prior de
"Fromptone habet in custodia sua.
"de hereditate prædicti heredis
"duodecim denariatas redditus et
"redditum unius clavi gariophili
"in Shiptone in eodem Comitatu
"Dorsetæ, qui non nominantur in
"prædicto vocare, &c., et fine
"quibus, &c. Et hoc paratus est
"verificare, &c., unde petit judi-
"cium, &c."

To this Robert said "quod
". quando ipse præ-
"dictum heredem in custodia
"prædicti Comititis vocavit ad
"warrantum, &c., idem Comes
"habuit in custodia sua omnia
"terras et tenementa prædicti
"heredis quæ habuit per descen-
"sum hereditarium de eodem
"Willelmo patre, &c., absque hoc
"quod prædicti Johannes de Ferra-
"riis, Abbas, et Prior tunc aliquid
"habuerunt in terris prædicti
"heredis ratione minoris ætatis
"ejusdem heredis."

Upon this issue was joined between Robert and the Earl, and the *Venire* was awarded.

No. 18.

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1345-6.

demandant prayed her dower, and her prayer was counterpleaded to the effect that she should not have it, because the husband's heir is vouched, in which case the woman's recovery will be against the heir, and not against the tenant.—*Pole*. It is certain that, on this writ, the woman's action will never be counterpleaded, and therefore it is not right that by a traverse taken between the tenant and the vouchee the demandant should be put to delay.—And there was touched the point that, because the warranty was not confessed, she must necessarily be delayed, for, on the supposition that the tenant died while the issue was pending, the writ would abate.—*Grene*. If judgment is rendered now the writ will not abate, and the tenant's heir, if the tenant dies, will have suit to deraign the value, so that in that respect there is no mischief; and if the demandant is delayed the mischief is too great for her.—And the demandant was delayed, and had a day, &c.

Detinue of
a writing.

(18.) § Detinue of a writing. The defendant pleaded to the country that he did not detain. The detinue was found, to the plaintiff's damage of ten marks in case the writing had not been either burnt or eloigned, and to the damage of twenty marks if it had been eloigned. And the inquest was taken at *Nisi prius*.—WILLOUGHBY asked the plaintiff what judgment he would pray.—*Skipwith*. We pray our damages of twenty marks.—WILLOUGHBY. You will not have that, because possibly you will be able to

No. 18.

demandante pria soun dowere,¹ et est² countreplede qele navera pas, pur ceo qe le heir³ le baron est vouche, en quel cas le recoverir la femme serra⁴ vers le heir³ et noun pas vers le tenant.—*Pole*. Il est certeine qe, a cestuy brief, laccion la femme serra⁴ jammes countreplede, par quei il nest pas resoun qe par travers pris entre le tenant et le vouche⁵ qe la demandante soit mys en delaye.—Et fuit touche,⁶ pur ceo qe la garrantie nest pas conu, qil⁷ covient qele soit delaye, qar mettez qe pendant lissue le tenant murust,⁸ le brief abatereit.—[*Grene*. Si le jugement soit rendu a ore le brief nabatera]⁹ pas, et le heir³ le tenant, si le tenant devie, avera suite a derener la value, issi qe de cel part ny ad pas meschief; et si la demandante soit delaie le meschief est trop graunt¹⁰ pur luy.—Et la demandante est delaye, et ad jour, &c.¹¹

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1345-6.

(18.)¹² § Detinue descript. Plede fut au pays qe il ne detient pas. Trove fut la detenue, a damage le pleintif de x. marcz en cas qe lescrip ne fut pas ars ou alloigne, et en cas qil fut alloigne a damage de xx. marcz. Et lenqueste fut pris par *Nisi prius*.—WILBY demanda del pleintif quel jugement il voleit prier.—*Skip*. Nous prioms noz damages de xx. marcz.—WILBY. Ceo naveretz vous pas, qar par cas

Detinue
descript.
[Fitz.,
Office del
Court, 22.]

¹ According to the roll "Super
" hoc prædicta Agnes instant
" petit seisinam sibi de prædicta
" tertia parte, cum pertinentiis,
" versus prædictum Robertum
" petita adjudicari, &c."

² C., fuit.

³ C., leire, instead of le heir.

⁴ C., serreit.

⁵ L., and C., les vouches, instead
of le vouche.

⁶ I., par fait le vouche, instead
of Et fuit touche.

⁷ I., WILBY dit qil.

⁸ C., muruyst.

⁹ The words between brackets
are omitted from H. and I.

¹⁰ C., graunt meschief.

¹¹ On the roll the prayer to have
seisin of dower is followed by the
entry "Et super hoc datus est eis
" dies in statu quo
" nunc." There was a further
adjournment, but nothing more is
shown by the roll.

¹² From the four MSS., as above,
but the reports are, from this point,
not in the same order in them all.

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1345-6.

obtain possession of the writing; but if you will have the ten marks damages, and further a distress against the defendant to deliver the writing, that you may well have.—*Skipwith*. We do not dare to do that, because we believe that the writing has been burnt, and therefore we pray a new inquest.—*WILLOUGHBY*. You do wisely. Sue, and you shall have it.—And so note that the Justice at *Nisi prius* ought to have enquired whether the writing had been eloigned, or not, &c.

*Scire
facias.*

(19.) § *Scire facias* on a recognisance against ter-tenants on the ground that the death of the recognisor had been previously testified by the Sheriff.—*Gaynesford* alleged, on behalf of one who had been garnished, that he had only a term of years by lease from another person who was tenant of the freehold, and demanded judgment of the writ.—*Birton*. That plea is not to the writ, because the Sheriff had a general command to garnish the ter-tenants.—*WILLOUGHBY* and *HILLARY*. What you say is wrong, because such a writ will never be granted out of this Court; for in every *Scire facias* against ter-tenants which is to issue out of this Court the plaintiff must, at his peril, name the names of the ter-tenants, and against them and no other we will make process in this Court.—*Birton*. Then we pray a new writ, for we cannot deny his exception.—And he had the new writ.

Account.

(20.) § The executors of the Earl of Salisbury brought a writ of Account against the Abbot of Sherborne in respect of the time during which he was bailiff of their testator's manor.—*Grene*. Judg-

Nos. 19, 20.

vous poiety aver lescript; mes si vous voilleyz aver les damages de x. marcz, et outre la destresse vers le defendant de delivrer lescript, vous laveretz bien.—*Skyp.* Cella nosoms pas, qar nous quidoms qe il soit ars, et pur ceo nous prioms novel¹ enqueste.—*WILBY.* Vous fetes² sagement. Suetz, et vous laveretz.—*Et sic nota* qe la Justice³ dust aver enquis le quel lescript fut alloigne, ou noun, &c.⁴

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1345-6.

(19.)⁵ § *Scire facias* hors dune reconissance⁶ vers terre⁷ tenantz pur ceo qautrefoith la mort le reconissour⁸ fut tesmoigne par Vicounte.—*Gayn.* alleggea pur celuy qe fut garny qil navoit qe terme⁹ daunz du lees un autre qe fut tenant de fraunc tenement, et demanda jugement du brief.—*Birtone.* Ceo nest pas au brief,¹⁰ qar le Vicounte avoit general maundement¹¹ de garnir les terre⁷ tenantz.—*WILBY* et *HILL.* Vous dites mal, qar¹² tiel brief ne serra¹³ jammes graunte hors de ceinz¹⁴; qar en chesqun *Scire facias* vers terre tenantz qe istra hors de ceste place le pleintif a soun peril nomera les nouns des terre tenantz, et vers ces et nul¹⁵ autre¹⁶ ne ferroms proces ceinz.¹⁷—*Birtone.* Nous prioms novel brief donques, qar nous ne poms dedire sa excepcion.—*Et habuit.*

*Scire
facias.
[Fitz.,
Scire
facias,
121.]*

(20.)¹⁸ § Les executours le Counte de Salesbyrs¹⁹ porterent brief Dacompt vers Labbe de Shirbourne du temps qil fut baillif del maner lour testatour.—

*Accompte.
[Fitz.,
Accompt,
78.]*
¹ C., nouvelle.² H., faites; I., facetz.³ I., les Justices.⁴ C., *Quere* instead of, &c.⁵ From the four MSS., as above.⁶ H., conissance.⁷ H., terres.⁸ I., creaunsour.⁹ C., a terme.¹⁰ The words au brief are omitted from C.¹¹ I., garrant.¹² qar is from C. alone.¹³ C., serreit.¹⁴ I., cyeinz.¹⁵ C., nulles.¹⁶ C., autres.¹⁷ I., sieinz.¹⁸ From the four MSS., as above.¹⁹ C., Salesbure.

No. 20.

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1345-6.

ment of the count, for we tell you that, at the time in respect of which he has counted that the Abbot was supposed to be bailiff, there was one A., who was Abbot of the same House, and this Abbot was then only a monk, so that the count by which it is supposed that he was then Abbot is false.—*Huse.* It is not supposed by any words of the count that he was Abbot at the time at which he was bailiff; for, even though that were the fact, which we do not admit, still we should not have any other writ against him except by the description of Abbot, nor consequently any other count; but, if you will take your exception to the action on the ground that at the time at which you were bailiff such suit or action was not given against you, you can do so.—And the count was adjudged good.—*Grene.* Simon, Bishop of Ely, one of the executors, &c., named in the writ, is dead; judgment of the writ.—*Huse.* He was severed, and died after the severance, and therefore the writ is good, because if he had died before the severance, the fact would have been returned by the Sheriff.—*HILLARY.* No, he was severed, as we find by the record, by reason of his non-suit after appearance.—*Grene.* Yes, he died before the severance.—*Huse.* Executors demand for the benefit of their testator's estate, and not for their own profit, and therefore, as it seems to me, the death of one of them ought not to abate the writ.—And afterwards the writ was abated by judgment, &c.

No. 20.

Grene. Jugement de counte, qar nous vous dioms qal temps qil ad counte¹ qil dust estre baillif adonques il y avoit un A. Abbe de mesme la mesoun, et ceste adounques ne fut forqe moigne, issint le² counte par quel est suppose luy adonques estre Abbe est faux.—*Huse.*³ Il nest pas suppose Abbe par nulle parole⁴ de counte au temps qil fut baillif; qar, tut fut il issint, come nous ne conissons pas, unqore nous naveroms nul autre brief devers luy forqe par noun de Abbe, *nec per consequens* autre counte; mes si vous voilletz prendre vostre chalenge al accion pur ceo qe adonques quant vous fuistes⁵ baillif tiele suite ne accion ne fut pas done devers vous, vous le poietz.—Et le counte fut agarde bon.—*Grene.* Symond Evesqe Dely, un des executours, &c., nommes en le⁶ brief, est mort; jugement du brief.⁷—*Huse.*⁸ Il est severe, et fut mort puis la severaunce, par quei le brief est bon, qar sil ust este mort devant la severaunce, ceo ust este retourne par Vicounte.—*HILL.* Nanyl,⁹ il fut severe, come nous trovoms par recorde, par sa nounsuyte apres appar-aunce.—*Grene.* Oyl, il fut mort avant¹⁰ la severaunce.—*Huse.*¹⁰ Executours demandent al 'oeups lour testatour, et noun pas a lour profit demene,¹¹ par quei la mort dun deux,¹² a ceo qe moi¹³ semble, ne dust pas abatre le brief.—Et puis le brief fut abatu par agarde, &c.¹⁴

A.D.
1345-6.¹ I., compte.² H., C., and I., par.³ I., *Husee*.⁴ C., parole.⁵ H., fustes.⁶ C., el, instead of en le.⁷ All the MSS. except C., &c., instead of du brief.⁸ C., Nanylle.⁹ H., apres.¹⁰ H., and I., *Husee*.¹¹ All the MSS., except C., propre.¹² I., de eaux.¹³ moi is omitted from C.¹⁴ As this writ was abated by judgment, the case does not appear on the roll of this term. Another writ of Account was, however, brought, and the cause was heard in the following Michaelmas Term. See Y.B., Mich., 20 Edw. III., No. 84, and *Placita de Banco*, Mich., 20 Edw. III., R^o 419.

No. 21.

A.D.
1345-6.
*Ad
terminum
qui
præteriit.*

(21.)¹ § Edward Trenchaunt and his co-parcener brought an *Ad terminum qui præteriit* in respect of the office of bailiff of the soke of Winchester, counting that their ancestor was seised as of fee and of right of the office of bailiff, taking the esplees as in taking two pence a day from the Bishop of Winchester, and one robe a year, and four pence for every seisin recovered in the King's Court and delivered, &c.—*Gaynesford*. Judgment of the count. He has laid the esplees as of one robe a year and two pence a day, and they cannot be taken from the office of bailiff, whereas naturally esplees ought to be taken from the subject of the demand.—*Grene*. He takes all this by reason of his office of bailiff, and therefore these

¹ The commencement of this case is in Y.B., Easter, 19 Edw. III.,

No. 26, where it appears that view was prayed and granted.

No. 21.

(21.)¹ § Edward Trenchaut et sa parcenere porterent *Ad terminum qui præteriit* de la baillie de la sokage² de Wyncestre, contaunt qe lour auncestre fut seisi de fee et de³ dreit de la baillie, pernant les esplees come en pernant ij. deners le jour del Evesqe de Wyncestre, et un robe par an, et iij. deners pur chesqune seisine recoveri en la Court le Roi et livre &c.⁴—*Gayn.* Jugement du count. Il ad lie les esples come⁵ dune robe par an et ij. deners le jour, qe ne poet estre pris de la baillie, la ou naturellement les⁶ esplees doivent estre pris de la demande.—*Grene.* Ceo prent il par cause de sa baillie, par quei ces

A.D.
1345-6.*Ad terminum qui præteriit.*

¹ From the four MSS., as above, but corrected by the record, *Placita de Banco*, Hil., 20 Edw. III., R^o 331. It there appears that the action was brought by Edward Trenchaut, and Richard Chanyn, and Margery his wife, against Walter de Theddene, in respect of "ballivam de soka Wyntonis, cum pertinentiis, in suburbio Wyntonis, Alresforde, Sutton, Welde, Bentle, Craule, Merewelle, Biterne, Hamoite, Estmune, Hameldene, Hursle, Overtone, Waltham Episcopi, et Farham Episcopi, ut jus et hereditatem ipsorum Edwardi et Margerie, et in quam idem Walterus non habet ingressum nisi post dimissionem quam Johannes le Mareschal, avus prædicti Edwardi, et pater prædictæ Margerie, cujus heredes ipsi sunt, inde fecit Gilberto le Mareschal ad terminum qui præteriit."

² C. is the only MS. in which the word is written at length. In the other MSS. it is soc.

³ de is omitted from C.

⁴ The count was, according to the record, "quod prædictus Jo-

"hannes avus prædicti Edwardi
"et pater prædictæ Margerie fuit
"seisitus de prædicta balliva, cum
"pertinentiis, ut de feodo et jure,
" capiendo inde expletias,
"videlicet, de Episcopo Wynton-
"iensi unam robam per annum,
"et quolibet die per annum duos
"denarios, et pro qualibet seisina
"per præceptum Regis liberanda
"quatuor denarios, et in aliis ad
"valentiam, &c. Et de ipso Jo-
"hanne descendit jus, &c., quibus-
"dam Alicie, Matildi, et præfatæ
"Margerie quæ nunc petit simul,
"&c., ut filiabus et heredibus, &c.
"Et de ipsa Matildi, quæ habitum
"religionis in Abbacia beatæ Mariæ
"Wyntonis assumpsit, in qua
"professa fuit, et obiit sine herede
"de se, descendit jus propartis suæ
"præfatæ Alicie et Margerie ut
"sororibus et heredibus, &c. Et
"de ipsa Alicia descendit jus
"propartis suæ isti Edwardo ut
"filio et heredi qui nunc petit
"simul, &c. Et in quam, &c. Et
"inde producit sectam, &c."

⁵ come is omitted from H.

⁶ les is omitted from C.

No. 22.

A.D.
1345-6.

are the esplees and the profit.—And the count was adjudged good.—*Gaynesford*. His demand, which has been put in view, is the office of the Marshalship of Winchester, and by such name it has been named from all time, and by such name it should be demanded; judgment of the writ.—*Grene*. That is not a plea unless you say “and not the office of bailiff,” as we suppose, or else you would allege non-tenure of our demand; and we will aver, if you will deny it, that it is the office of bailiff as above.—*Gaynesford* waived the exception, and said:—The subject of demand extends into several vills which are not mentioned in the writ; judgment of the writ.—*Grene*. You shall not be admitted to that, because you have pleaded matter of fact to the abatement of our writ, and therefore you shall not now be admitted to abate our writ by another dilatory plea.—*WILLOUGHBY*. He did not abide judgment on that exception.—And afterwards the writ abated on non-denial, &c.

Trespass. (22.) § Trespass in respect of one cow and one calf

No. 22.

sount les esplees et le profit.—Et le counte fuit agarde bon.—*Gayn.* Sa demande mys en vewe est loffice del¹ Mareschalsie de Wyncestre, et par tiel noun de tut temps il est nome, et par tiel noun serra demande; jugement de brief.—*Grene.* Ceo nest pas plee si vous ne dietz et² noun pas baillie com nous supposoms, ou autrement qe vous vodrietz allegger nountenure³ de nostre demande; et nous voloms⁴ averer, si vous le voilietz dedire, qe cest la baillie *ut supra*.—*Gayn.* weyva lexcepcion et dit qe la demande sestent en plusours villes qe ne sount pas nomez en le brief; jugement de brief.⁵—*Grene.* A ceo ne serretz resceu, qar vous avetz plede par chose en fait al abatement de nostre brief, par quei ore par autre excepcion dilatorie dabatre nostre brief vous ne serretz mye resceu.—*WILBY.* Il demura mye sur cele chalenge.—Et puis sur nient dedire le brief abatist, &c.⁶

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1345-6.(22.)⁷ § Trans dune vache et un veel amenez Trans.¹ C., de la.² C., qe.³ C., nountenue.⁴ C., le voloms.

⁵ The words jugement de brief are from C. alone. The plea was, according to the record, "quod "prædicta balliva est quoddam "officium Marescalcis, &c., et in "pluribus villis quam in prædicto "brevi inseruntur se extendit, vide- "licet, in Brokenesforde, Bradele, "Bertonestacy, Romeseye, et Wyn- "tonia. Et hoc paratus est verifi- "care, unde petit judicium de "brevis, &c."

⁶ In C. there are added the words *Vide supra principium*. The concluding words of the record are "Et Edwardus et alii non possunt "hoc dedicere. Ideo consideratum

"est quod iidem Edwardus et alii
"nihil capiant per breve suum,
"&c."

⁷ From the four MSS., as above, but corrected by the record, *Placita de Banco*, Hil., 20 Edw. III., R^o 278, d. It there appears that the action was brought by John de Bouklond, knight, against Margery late wife of John de Grymstede, and Roger Peny, in respect of a taking of one cow and one calf, "in villa de Brokle in quodam "loco qui vocatur Wyeste Pynde- "leseeyefryde. . . . Et "eos injuste detinuerunt contra "vadium et plegios."

Margery traversed the taking, and issue was joined upon her traverse.

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1345-6.

driven away against the peace.—*Derworthy*. We tell you that, as executors of one A.,¹ we came to the place in which he supposes the taking to have been effected, and brought together the beasts which belonged to the deceased, for the purpose of making an inventory, and this cow and the calf were among the other beasts, and we could not separate them from the others, and, when we drove the other beasts, the cow and calf followed those other beasts, &c.—*Huse*. That is tantamount to saying that you did not take or drive away our beasts as we complain; ready, &c., that you did.—*Derworthy* changed his answer, and said as above, adding, “and therefore we drove them to a certain place, among the other beasts, to a pound, and we separated them from the other beasts, and, when they were separated, we drove them back to the place in which they were found; judgment whether in respect of such a driving you can attach any tort, against the peace, in our person.”—*Huse*. You have confessed that you

¹ As to the names of the executors, against whose servant the action was brought, see p. 85, note 3.

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countre la pees.—*Der.* Nous vous dioms qe nous venimes al lieu ou il suppose la prise estre fait, come executours un A., et enbraceames les bestes qe furent au mort, pur faire inventare, et ceste vache et le veel furent entre les autres bestes, et nous les ne poames severer de les autres, et, quant nous chaceames les autres bestes, le vache et le veel pursuyrent les autres bestes, &c.—*Huse.* Tant amount qe vous ne preistes ne enchaceastes noz bestes come nous pleignons¹; prest, &c., qe si.—*Der.* chaungea soun respons, et dit *ut supra*, par quei nous les chaceames a un certain lieu, entre les autres bestes, a un parke, et les severames de les autres bestes, et quant ils furent severetz nous les rechaceames al lieu ou ils furent trovetz; jugement si de cel enchace² tort countre la pees en nostre persone puissetz attacher.³—*Huse.* Vous avetz conu qe vous enchaceastes noz

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1345-6¹ C., pleignons.² H., enchaz; C., enchacer.

³ C., assigner Roger's plea was, according to the record, "quod quidam Johannes de Grymstede fuit dominus de Brokenhurst in Nova Foresta juxta Brokle, quæ quidem villæ de Brokenhurst et Brokle se jungunt ad invicem, et dicit quod locus in quo, &c., est quædam pastura in Nova Foresta prædicta, ubi animalia prædictarum villarum se compascunt in communi pastura, &c., et dicit quod prædictus Johannes de Grymstede obiit, et fecit executores suos Johannem Elys et Radulphum Elys et alios, qui quidem executores præceperunt prædicto Rogero, tanquam servienti suo petendi et ducendi omnia animalia prædicti Johannis defuncti in prædicta pastura et alibi existentia ad Curiam de Broken-

hurst prædictam, ad faciendum inventorium ejusdem defuncti de omnibus bonis suis. Et ipse quæsit omnia animalia in prædicto loco et alibi prædicti defuncti, qui quidem vacca et vitulus non potuerunt separari eundo adtunc ad Curiam prædictam de Brokenhurst. Et postea ipse Rogerus separavit prædictos vaccam et vitulum de animalibus prædicti defuncti, et refugavit eosdem vaccam et vitulum in prædicto loco de Brokle quo prius extiterunt, et sic prædictus Johannes de Bouklond habet et seisisus est de prædictis vacca et vitulo ad voluntatem suam, et hoc paratus est verificare, &c., unde petit judicium, &c., si prædictus Johannes de Bouklond aliquam injuriam in persona ipsius Rogeri assignare possit in hoc casu, &c."

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drove off our beasts without cause, and therefore we pray our damages.—*Derworthy*. Then it is so.—*Huse* did not dare to abide judgment, but said that the defendant drove off the beasts *de son tort demesne*, without such cause as had been assigned; ready, &c.—And the other side said, on the contrary, that it was for such cause.

Avowry.

(23.) § John le Olde¹ avowed on the plaintiff on the ground that the plaintiff held of him by certain services, and laid the seisin by the hand of the avowant's grandfather, and he avowed for homage and fealty in arrear.²—*Thorpe*. We tell you that Isabel de Forte, Countess of Albemarle, was mesne between the avowant's great-grandfather, of whom the tenant in demesne held, and the King, the Countess's lord, which Countess purchased the demesne to hold to herself and her heirs of her tenant, and by that purchase the seignory of her ancestor was extinguished. And *Thorpe* traced the tenancy by feoffment and descent from the Countess to the plaintiff who now pleads. And thus we are tenant of our Lord the King, attendant to him in respect of our services; judgment whether they can maintain this avowry for a seignorial matter.—*Huse*. You see plainly how his plea is only a disclaimer, or-else to the effect that the tenements are out of our fee, and therefore the law does not put me to answer to that which he alleges, inasmuch as he

¹ The name is not correctly given in the report. According to the record the plaintiff was William le Olde, and the avowant John de Compton. See Y.B., Easter,

20 Edw. III., No. 46, where the record is quoted.

² According to the record John de Crompton avowed for rent, suit of court, and fealty in arrear.

No. 23.

bestes saunz cause, par quei nous prioms nos damages.—*Der.* Donques est il issi.—*Huse* nosa demurer, mes dit qe il les enchacee de son tort domene, sanz tiel cause; prest, &c.—*Et alii e contra*, qe par tiel cause.¹

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(23.)² § Johan le Oulde avowa sur le pleintif pur ceo qe il tient de luy par certeinz services, et lia seisine par my la meyn laiel lavowaunt, et pur lomage et la³ fealte⁴ arrere avowa.—*Thorpe.* Nous vous dioms qe Isabelle de Forte, Countesse Daumarle,⁵ fut mene entre le besaiel lavowaunt, de qi le tenant en demene tient, et le Roi seignur la Countesse,⁶ la quele Countesse purchacea la demene a luy et a ses heirs de⁷ tenant, par quel purchace la seignurie soun auncestre fust esteynt. Et conveia la tenance par feffement et descente de la Countesse tantqal pleintif qore plede. Et issint sumes tenant nostre seignur le Roi, entendant a luy de noz services; jugement si pur chose seignuriele puissent⁸ ceste avowere maintenir.—*Huse.* Vous veietz bien coment son plee nest qun desclamance, ou autrement qe les tenementz sount hors de nostre fee, par quei a ceo qil allegge ley ne moi mette a respoundre, desicome

Avowere.
[Fitz.,
Avowere,
126.]

¹ The replication was, according to the record, "quod prædictus Rogerus cepit prædictos vaccam et vitulum, et eos injuste detinuit contra vadium et plegios, &c., et adhuc inde seisisus est, sicut ipse superius asserit, et hoc paratus est verificare."

This was followed by a rejoinder from Roger, upon which issue was joined, "quod ipse non cepit prædictos vaccam et vitulum alio modo quam ipse superius asserit, nec eos detinuit, nec de eis seisisus est."

The award of the *Venire* follows

on the roll, but nothing further.

² From the four MSS., as above. The record of the case has been found among the *Placita de Banco* of the term next following (Easter, 20 Edw. III.), R^o 228, d, and there is another report concluding the case in that term (No. 46).

³ la is from C. alone.

⁴ H., foialte; C., feaute.

⁵ L., and C., Darundelle.

⁶ The words seignur la Countesse are omitted from C. and H.

⁷ C., del.

⁸ C., puissetz.

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does not take his plea in accordance with the course of law; therefore we pray the return.—WILLOUGHBY. Is it as he has said, or not?—*Birton*. Even though it were as he has said, it would be bad law that the mesne seignory would be extinguished by the purchase of the lord paramount.—WILLOUGHBY. It is law, and so it must be.—*Birton*. It would be right that the lord paramount who purchases the demesne should be tenant to the mesne, and that the mesne should stand in his place with regard to the lord above him.—HILARY. Then you mean that by his purchase he would become tenant to the person whose lord he previously was, and that cannot be.—WILLOUGHBY. Yes, the mesne seignory must be extinguished, or else a tenant might hold one and the same tenancy of divers lords, and that cannot be; therefore, will you abide judgment on the point?—*Huse*. Not admitting that the Countess held of the King, we tell you that long before the statute,¹ in the time of King Henry III., the Countess gave to our ancestor in fee simple to hold of her and her heirs, and that our ancestor gave the same tenements to the plaintiff's ancestor to hold of him and his heirs, &c.; and we demand judgment, and pray the return.—*Thorpe*. Then it is the fact that the Countess purchased as above. And, inasmuch as you do not show any later title to the seignory, we pray judgment.—*Huse*. We tell you, as above, that the Countess, after that purchase of which you speak before the statute, in the time of King Henry III., at which time the King's tenant could give to hold of himself, gave to our ancestor as above, and our ancestor gave over; and we demand judgment, and pray the return.—*Thorpe*. And inasmuch as you

¹ *De prerogativa Regis*, according to the record. The pleadings, however, from this point, differ from those in the report of Easter Term, with which the record more closely corresponds.

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il ne prent mye soun plee par cours de ley; par quei nous prioms retourn.—WILBY. Est il issint come il dit ou nient?—Birtone. Tut fuit il issi come il parle, il serreit malveys ley qe par le purchace le seigneur paramount la seignurie mene fuit esteynt.—WILBY. Il est lei et issi covent il estre.—Birtone. Il serreit resoun qe le seignur paramount qe purchace le demene fuit tenant au mene, et le mene¹ devenue en soun lieu vers le seignur paramount luy.—HILL. Donques vodretz vous qe par soun purchace il devendreit tenant a celui a qi il fut seignur a devant, et ceo ne poet estre.—WILBY. Oil, il covient qe la seignurie mene soit² esteint, ou autrement qun tenant tendreit de divers seignurs un mesme tenance, qe ne poet estre; par quei voilletz la demurer?—Huse. Nient conissaunt qe la Countesse tient du Roi, vous dioms qe long temps devant lestatut, en temps le Roi Henre, la Countesse dona a nostre auncestre en fee simple a tenir de luy et de ses heirs, et qe nostre auncestre dona mesmes les tenementz al auncestre le pleintif a tenir de luy et ses heirs, &c.; et demandoms jugement et prioms retourn.—Thorpe. Donques est il issi qe la Countesse purchacea *ut supra*. Et, desicome vous ne moustrez pas title de seignurie puis, nous³ prioms jugement.—Huse. Nous vous dioms, *ut supra*, qe la Countesse puis cel purchace dount vous parletz devant lestatut en temps le Roi Henre, a quel temps le tenant le Roi poait doner a tenir de luy mesme, dona a nostre auncestre *ut supra*, et nostre auncestre dona outre; et demandoms jugement et prioms retourn.—Thorpe. Et⁴ desicome vous avetz conu qe

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¹ All the MSS. except C., qe il fut, instead of le mene.

² C., ne soit.

³ The words puis, nous are omitted from H. and I.

⁴ Et is from H. alone.

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have admitted that the Countess was the King's tenant, even though it was before the statute, we understand that the law was the same then as now, that is to say, that no tenant of the King could aliene to hold of any one but the King, so that all the subsequent feoffees were and are tenants of the King; and therefore we demand judgment of this avowry.—And they were adjourned.

Dower :
rent de-
manded.

(24.)¹ § Rent was demanded against several persons. To the View the Sheriff returned that some were dead.—*Grene* recited as above, and demanded judgment, and prayed that the writ might be abated.—The demandant prayed that the parties might be called, because he said that, although the Sheriff had returned their death, the persons were living; and because they did not appear he prayed the *Petit Cape* by reason of their default.—*Grene*. You cannot have an answer contrary to the Sheriff's return, but the writ ought to be abated; and, if the Sheriff has made a false return, sue by writ of Deceit against him; for suppose that the Sheriff had returned to the Summons that the tenant was dead, the demandant would have nothing to say in order to maintain the writ.—HILLARY. What you say is wrong; if he wished, he could have a *Protestatum est*, or an *Alias* Summons, out of this Court, and so now he will have, at his peril, a *Protestatum est* to the effect that the tenants are living.—And the demandant prayed a *Petit Cape*.—And he had it by judgment.

Wardship.

(25.) § A writ of Wardship of the body and of the lands was brought on behalf of two persons. One did not prosecute his suit. The defendant demanded judgment of nonsuit in respect of both.—*Skipwith*. This is an action affecting the right, and it is not

¹ This may be a continuation of Y.B., Hil., 19 Edw. III., No. 29, and Trin., 19 Edw. III., No. 55.

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la Countesse fuit tenant¹ le Roi, tut fut ceo devant lestatut, nous entendoms mesme la ley adonques come ore, saver,² qe nul tenant le Roi poait alier a tenir dautre forge de Roi, issint qe touz les feffes puis furent et sount tenantz le Roi ; par quei nous demandoms jugement de ceste avowere.—*Et adjornantur, &c.*

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(24.)³ § Rente demande vers plusours. A la viewe le Vicounte retourna qe les uns sount mortz.—*Grene* rehercea *ut supra*, et demanda jugement et pria qe le brief fut abatu.—Le demandant pria qe les parties fuissent demandetz, qar il dit, coment qe le Vicounte retourna lour mort, qils furent en vie ; et pur ceo qils ne vindrent pas il pria le petit *Cape* par lour default.—*Grene*. Countre retourn de Vicounte vous⁵ naveretz pas respons, mes il covient qe le brief soit abatu ; et sil eit fausement retourne, suetz par⁶ brief de Desceite vers luy ; qar mettez moi qe a la somons le Vicounte ust retourne qe le tenant fuit mort, le demandant avereit rienz a dire pur maintenir le brief.—*HILL*. Vous ditetz mal ; sil voleit, il avereit *protestatum est*, ou une somons *sicut alias* hors de ceinz,⁷ et auxi avera il ore a soun peril *protestatum est* qe les tenantz sount en vie.—Et pria⁸ petit *Cape*.—*Et ita habuit* par agard.

Dowere :
Rente de-
mande.⁴
[Fitz.,
Avere-
ment, 32.]

(25.)³ § Garde de corps et des terres pur deux. Garde.⁹ Lun ne suyst pas. Le defendant demanda jugement de la nounsuyte de lun et de lautre.—*Skyp*. Ceo est un accion en dreit, et nest pas resoun qe par

¹ C., tenance.

² All the MSS. except C., qore, instead of come ore, saver.

³ From the four MSS. as above.

⁴ The marginal note in H. is *Præcipe*. The words Rente demande are from L., from which the word Dowere is omitted.

⁵ vous is from C. alone.

⁶ par is omitted from C.

⁷ I., cyeynz.

⁸ The words Et pria are omitted from H. and C.

⁹ H., Garde de corps.

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just that by the nonsuit of one the other should be debarred from his right; therefore it is just that the one who prosecutes his suit should have an action with respect to the entirety; and that has been often adjudged in like case, and in Intrusion upon Wardship also.—WILLOUGHBY. Severance was never awarded in such a case, nor is it any more right in this case than in Debt, Detinue, or Covenant. And as to that which you allege as being mischief for the one who prosecutes his suit, there would be the same mischief to the one who is now nonsuited if you were to recover alone, because then he would be debarred from his right.—*Thorpe* to WILLOUGHBY. Sir, that is not what used to be held in former times.—And they were adjourned.

*Audita
Querela*

(26.) § A writ of *Audita Querela* was sent to the Justices supposing that the person who sued it was compelled by duress of prison to execute a statute merchant in favour of another. And the writ purported that, *vocatis partibus*, they should do what was right. And upon this writ a *Venire facias* was prayed against the party.—HILLARY. It would be extraordinary to defeat matter of record by such suit.—*Grene*. It has been seen that an infant under age who had executed such a statute has been aided by such suit.—STONORE. Yes, that was during his nonage, where the Court, after making inspection at the time of his suit, adjudged him to be under age; but if he waits until he has become of full age, he will fail to have such suit; and your writ does not mention that you were in the prison of the person in whose favour the statute was executed.—*Grene*. That will be understood; and even if it were not so, this suit would still be in accordance with what is right. And it has often been seen in this Court that, where a party had paid the money, and the statute had been cancelled in lieu of acquittance, and the other party

No. 26.

nounsuyte del un qe lautre soit forclos de soun dreit; par quei il est resoun qe celui qe suyst eit accion del enter; et ceo ad este sovent ajugge en autiel cas, et en Intrusion de garde auxint.—WILBY La¹ severaunce en tiel cas ne fut unqes agarde, ne nient plus est il resoun cy² qen Dette, Detenue, ou³ Covenant. Et ceo qe vous alleggetz pur meschief pur celui qe suyst, mesme le meschief y avereit pur celui qest ore nounsuy si vous recoverez soul, qar donqes serra⁴ il forclos.—*Thorpe* a WILBY. Sire,⁵ ceo soleit pas estre tenu devant.—*Et adjornantur.*

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(26.)⁶ § *Audita Querela* fut maunde a les Justices, supposant qe celui qe suyst fut mys par duresce de prisoun de faire un estatut marchaunt a un autre. Et le brief voleit *vocatis partibus* qils feissent resoun, hors de quel brief *Venire facias* fut prie vers la partie.—HILL. Il serreit merveille a defaire chose de recorde par une tiele suite.—*Grene.* Homme ad view qe enfaunt deinz age qe fist estatut fut eide par tiele suite.—STON. Oyl, ceo fut durant son nounage, ou Court par inspeccion a temps de sa suite luy ajugea deinz age; mes, sil attend tanqil fut de plein age, il faudra de tiel suite; et vostre brief ne fait pas mencion qe vous fuistes en la prisone de celui a qi lestatut fut fait.—*Grene.* Ceo serra entendu; et tut ne fuit il pas issint, unqore ceste suite serreit resonable.⁷ Et homme ad viewe ceinz sovent⁸ qe ou partie avoit paie les deners, et lestatut dampne en lieu daquitance, et apres lautre

Audita Querela.
[Fitz.,
Audita Querela,
27.]

¹ C., Sa.

² C., icy.

³ ou is omitted from H. and I.

⁴ C., serreit.

⁵ Sire is omitted from C.

⁶ From the four MSS. as above.

⁷ I., il serra resceu, instead of ceste suite serreit resonable.

⁸ sovent is omitted from C.

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A.D. 1345-6. had afterwards sued execution upon a false and feigned statute, the person who was aggrieved was afterwards aided by such a writ.—HILLARY. Would you have a *Supersedeas*? That would not be right.—GRENE. We tender you mainprise to prosecute the suit; and with regard to the lands delivered or to be delivered we do not pray a *Supersedeas*, but we pray a *Venire facias* against the party, as above, and when he comes he will have his answer.—WILLOUGHBY. Even if you have the writ there is no harm.—And the writ was granted to him.

*Quod
permittat.*

(27.) § A *Quod permittat deexaltare quoddam stagnum* was brought against the Prior of the Hospital [of St. John of Jerusalem in England], on which the count was that his predecessor raised the level of the said stank, which adjoins the plaintiff's lands, in the time of the plaintiff's grandfather,¹ by reason whereof certain acres of meadow and of arable land, which belonged to his grandfather,¹ were overflowed through the holding up of the water. Therefore, whereas he¹ used formerly to let the said land and meadow for forty pounds *per annum*, he could not afterwards let them for more than four shillings. And he traced the descent of the soil from the grandfather¹ to

¹ Grandmother, according to the record. See p. 95, notes 3 and 7.

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suyt sur faux estatut et feint une execucion qe
 apres¹ celui qe fuit greve fut eide par tiel brief.—
 HILL. Vodretz vous aver une *Supersedeas*? Ceo ne
 serreit pas resonable.—Grene. Nous vous tendoms,²
 meinprise de suire; et quant a les terres liverez
 ou a liverer nous ne prioms pas *Supersedeas*, mes
 nous prioms *Venire facias* vers la partie, *ut supra*,
 et quant il vendra il avera soun respons.—WILBY.
 Mesqe vous eietz le brief il ny ad mye mal.—Et
 le brief luy est grante.

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(27.)³ § *Quod permittat deexaltare quoddam stagnum* Quod
 vers le Priour del Hospital,⁴ countaunt qe⁵ soun *permittat*.
 predecessour enhaucez le dit estaunke, qest joignaunt
 as terres le pleintif, a temps de soun aiel, parount cer-
 teines acres de pree et de terre qe furent a soun aiel
 par retener⁶ del ewe furent surundes; par quei, la ou
 il soleit lesser la dite terre et pree pur xl.li. a devant,
 il ne les poait lesser apres forqe pur iiij.s. Et fist
 la descente du soille del aiel tanqal pleintif, &c.⁷—

¹ apres is from C. alone.² C., troveroms.

³ From the four MSS. as above,
 but corrected by the record, *Placita
 de Banco*, Hil., 20 Edw. III., R^o.
 325. It there appears that the
 action was brought by Baldwin de
 Friville against Philip de Thame,
 Prior of the Hospital of St. John of
 Jerusalem in England, "quod per-
 mittat ipsum deexaltare quod-
 dam stagnum in Mawardyn, quod
 Thomas Larcher, nuper Prior
 Hospitalis Sancti Johannis Jeru-
 salem in Anglia, prædecessor
 prædicti nunc Prioris Hospitalis
 prædicti, injuste et sine judicio
 exaltavit ad necumentum liberi
 tenementi Johanne quæ fuit uxor
 Alexandri de Friville aviæ præ-
 dicti Baldewini, cujus heres ipse
 est."

⁴ I., Ospital.⁵ C., coment.

⁶ All the MSS., except H.,
 retourne.

⁷ The declaration was, according
 to the record, "quod cum prædicta
 Johanna avia, &c., seisita fuisset
 de centum acris terræ et viginti
 acris prati, cum pertinentiis, in
 Mawardyn in dominico suo ut de
 feodo et jure, . . . a
 latere ejus terræ et prati quædam
 riparia quæ vocatur Lugge rectum
 cursum suum tenere solebat, et
 currere infra ripas ejusdem
 ripariæ a villa de Bodenham per
 medium prædictæ villæ de
 Mawardyn prope eadem terram
 et pratam ipsius Johanne in
 eadem villa jungens ad terras
 ipsius Prioris in eadem villa de
 Mawardyn, et ab inde usque stag-

Nos. 28, 29.

A.D. 1345-6. the plaintiff. — *Birton* prayed view, and had it.

Note :
Elegit.

(28.) § Note that the Abbot of Ramsey, who had heretofore recovered Damages, and prayed an *Elegit*, and been adjourned to this Term on the question whether he should have an *Elegit* or not, now had it by judgment, &c.

Debt.

(29.) § A writ of Debt was brought against an Abbot, and the count was that his predecessor, with the consent of the Convent, in the time of the

Nos. 28, 29.

Birtone demanda la viewe, et habuit.¹A.D.
1345-6.

(28.)² § *Nota* qe Labbe de Rameseye, qavoit autre-
foith recoveri damages, et pria *Elegit*, et fut ajourne
le quel il avera⁴ le *Elegit* ou nient⁵ tanqa ceste
terme, et ore par agard il lavoit, &c.

Nota:
*Elegit.*³
[Fitz.,
Execucion,
82.]

(29.)³ § Dette vers⁶ Abbe, countant qe⁷ soun pre-
decessour, del assent le⁸ Covent, en temps laiel, soi

Dette.
[Fitz.,
Abbe, 14.]

" num ipsius Prioris in eadem villa,
" et a stagno illo versus mare, quo
" tempore prædicta Johanna per-
" cipere solebat per annum pro
" bladis et herbis super terram et
" pratum ipsius Johanne prædicta
" crescentibus quadraginta libras,
" prædictus Thomas, prædecessor,
" &c., injuste, &c., stagnum præ-
" dictum exaltavit, per quod aqua
" ejusdem ripariæ retinebatur, et
" adhuc retinetur, ita quod aqua
" illa tunc refluit et superundavit,
" et adhuc superundat prædicta
" terram et pratum quæ tunc fuerunt
" ipsi Johanne in eadem villa, per
" quas quidem superundationem
" et longam retinenciam aquæ illius
" blada et herbæ crescentia in
" eisdem terra et prato de anno in
" annum submersa fuerunt, et
" adhuc existunt, ita quod eadem
" Johanna post stagnum illud sic
" exaltatum in vita sua percipisse
" non potuit annualiter nisi qua-
" tuor solidos pro bladis et herbis in
" terra prædicta crescentibus, nec
" prædictus Baldewinus post ejus
" decessum modo plus non percipit
" de eisdem nec percipere potest,
" quæ prædicta Johanna de tene-
" mentis prædictis obiit seisisita, &c.
" Et de ipsa Johanna descendit jus,
" &c., cuidam Baldewino ut filio
" et heredi, qui obiit seisitus de
" tenementis prædictis, &c. Et de
" ipso Baldewino descendit jus, &c.,

" isti Baldewino qui nunc, &c., ut
" filio et heredi, &c. Prædictus
" Thomas nuper Prior, &c., præ-
" decessor, licet per præfatam
" Johannam in vita sua seu per
" prædictum Baldewinum post
" decessum ipsius Johanne sæpius
" requisitus quod stagnum illud
" permitteret deexaltare, nec præ-
" dictus Philippus nunc Prior, &c.,
" post mortem prædicti Thomæ,
" &c., prædecessoris, &c., per ipsum
" Baldewinum patrem, &c., seu per
" ipsum Baldewinum qui nunc, &c.,
" sæpius sic requisitus quod stag-
" num prædictum deexaltare per-
" mitteret, prædictus Thomas
" nuper Prior, &c., in vita sua stag-
" num illud deexaltare non per-
" misit, nec prædictus Philippus
" nunc Prior, &c., adhuc non per-
" mittit, unde dicit quod deterior-
" atus est et damnum habet ad
" valentiam mille librarum, et
" inde producit sectam, &c."

¹ So in the roll:—" Prior . . .
" petit inde visum. Habeat. Dies
" datus est eis hic a die Sanctæ
" Trinitatis in xv dies."

² From the four MSS., as above.

³ *Elegit* is from C. alone, from
which MS. *Nota* is omitted.

⁴ H., avereit.

⁵ I., ne mye.

⁶ C., demande vers.

⁷ C., coment.

⁸ I., soun.

No. 30.

A.D.
1345-6.

King's grandfather, bound himself by their deed, &c.—*Gaynesford*. You see plainly how this deed purports to be dated before the Statute of Carlisle made in the time of the King's grandfather, by which statute it was ordained that Abbots of the Cistercian Order should have a common seal¹; and before that time there was only the seal of the Abbot; and by his count he supposes that at the time at which the obligation was made it could be the deed of the Abbot and the Convent; judgment of the count.—This exception was not allowed.—*Grene*. This is the deed of the Abbot, and not of the Abbot and Convent; ready, &c.—*STONORE*. I see plainly that you are teaching the Grey Friars how to plead, but you may rest assured that the Abbots of that Order used to bear the same seal of their House, and to bind the House.—*Grene*. Then let him aid himself in that way, and we will abide judgment with him on such matter.—*Pole* would not do this, but maintained that it was the deed of the Abbot and Convent; ready, &c.—And the other side said, on the contrary, that it was not their deed.

Avowry.

(30.) § Avowry, in a place other than that as to which the plaintiff counted, for rent charge created by a specialty the date of which was in Wales.—*Skipwith*. We must maintain, for issue of the plea

¹ 35 Edw. I. (*De Apportis Religiorum*), c. 4.

No. 80.

obligea par lour fait, &c.—*Gayn.* Vous veietz bien coment ceo fait purport date devant lestatut de Cardoil¹ fait en temps laiel le Roi, par quel estatut fut ordeine² qe les Abbes³ del ordre de Cisteux averount comune seal; et devant cel temps ny avoit forqe le seal Labbe; et par soun count il suppose qe au temps del obligacion fait qe ceo purreit estre le fait Labbe et le Covent; jugement de count.⁴—*Non allocatur.*—*Grene.* Ceo est le fait Labbe, et noun pas del Abbe et le⁵ Covent; prest, &c.—*Sron.* Jeo vie⁶ bien vous apernetz⁷ les griz moignes de pledere qe soietz certain qe les Abbes de cel ordre soleient porter mesme le seal de lour mesoun et lier la mesoun.—*Grene.* Soi eide donques par cele voie, et nous voloms demurer en jugement ove luy sur tiel matere.—*Pole* ne voleit, mes meintient qe ceo fut le fait Labbe et le Covent; prest, &c.—*Et alii, e contra,* qe nient lour fait.

A.D.
1345-6.

(30.)⁸ § Avowere, en autre lieu qe le pleintif ne counta, pur rente charge par especialte dount la date fut en Gales.⁹—*Skip.* Il nous covient meyntener

[Fitz.,
Avowere,
127.]¹ C., Cardoille.² C., ordeigne.³ L., Abbeys.⁴ The words de count are omitted from C.⁵ le is omitted from C.⁶ H., vey.⁷ C., appernetz.

⁸ From the four MSS., as above, but corrected by the record, *Placita de Banco*, Hil., 20 Edw. III., R^o. 266, d. It there appears that the action was brought by William le Yonge of Shrawardine against Thomas Lestraunge in respect of a taking of 200 "bidentes" and 100 "oves" "in villa de Urlesnesse in quodam loco qui vocatur Brome."

⁹ The avowry was, according to the record, "quo ad captionem

"triginta bidentium et centum

"ovium de prædictis bidentibus et

"ovibus dicit quod ipse non cepit

"illos triginta bidentes et centum

"oves. Et quo ad captionem

"residuorum bidentium prædic-

"torum, videlicet centum sexa-

"ginta et decem bidentum dicit

"quod ipse cepit bidentes illas

"in quodam loco qui vocatur

"Brome in villa de Foxtone in

"Shrewardyneshome, et non in

"prædicta villa de Urlesnesse prout

"idem Willelmus superius queritur,

"et hoc paratus est verificare, &c.,

"sed pro retorno eorundem biden-

"tum habendo dicit quod idem

"Thomas alias apud Overtone

"Madoc, videlicet, in Festo Sancti

"Michaelis Archangeli anno regni

No. 80.

A.D. 1345-6 between us, the plaint to the effect that the taking was in the same place as to which we have counted; but his avowry made for the purpose of having the return in virtue of a specialty bearing date at a place where you have no jurisdiction, or power to take cognisance, will not be entered, as it seems to us.—HILLARY. Yes, it will be, and if the finding on the issue be in his favour, he will have

No. 80.

pur issue de plee entre nous et la pleinte en mesme le lieu ou nous avoms counte; mes savowere pur aver retourne par force despecialte portant date ou vous navietz¹ jurisdiction, ne poaire² a conustre, ne serra pas entre a ceo qe nous semble.—HILL. Si serra, et, si sa mise soit³ trove, il avera retourne.—

A.D.
1345-6.

“domini Regis nunc decimo septimo,
“per quoddam scriptum indentatum concessit et dimisit prædicto Willelmo et heredibus suis ballivas bedelerie et forestarie de Maylors, cum pertinentiis, habendas et tenendas eidem Willelmo et heredibus suis ad terminum quatuor annorum proxime sequentium, reddendo inde per annum eidem Thomæ decem marcas ad Festa Annunciationis beate Mariæ et Sancti Michaelis per æquales portiones, et prædictus Willelmus per idem scriptum indentatum concessit quod cum prædictus redditus decem marcarum eidem Thomæ a retro fuisset ad aliquem terminum pro firma ballivarum, &c., tunc idem Willelmus concessit eidem Thomæ quendam annum redditum decem marcarum percipiendum de omnibus terris et tenementis ipsius Willelmi in Comitatu Salopie ad totam vitam ipsius Thomæ ad Festa Annunciationis et Sancti Michaelis, per æquales portiones, et concessit quod si redditus ille eidem Thomæ sic concessus ad aliquem terminum a retro extitisset quod idem Thomas in omnibus terris et tenementis ipsius Willelmi distringere posset pro redditu prædicto, &c., ac idem Willelmus tempore confectionis scripti prædicti seisisit fuit de duabus carucatis terræ, cum pertinentiis, in

“Shrewardyne, una carucata terræ in Heptone in Straungeneshome, una carucata terræ in Alvertone, medietate unius carucatæ terræ in Straungenesse, et de una carucata terræ, cum pertinentiis, in Foxtone in Shrewardyneshome, de quibus quidem tenementis locus in quo, &c., est parcella, et de aliis terris et tenementis in Comitatu prædicto, et quinque marcas de termino Sancti Michaelis anno regni domini Regis nunc Angliæ decimo octavo de firma ballivarum, &c., eidem Thomæ a retro fuerunt, et quia quinque marcas de redditu sibi concessio ad terminum vite, &c., de termino Annunciationis beate Mariæ anno regni domini Regis nunc Angliæ decimo nono eidem Thomæ a retro fuerunt ante diem captionis, &c., cepit ipse bidentes illos in prædicta villa de Foxtone in loco prædicto ut in parcella tenementorum sibi oneratorum in forma prædicta, sicut ei bene licuit. Et profert hic prædictum scriptum indentatum quod hoc testatur in hæc verba.” The deed (in French) is then set out at length. It purports to have been “escript a Overton Madoc.” The avowry then continues, “unde petit iudicium et returnum sibi adjudicari.”

¹ H., navetz.

² H., poer.

³ C., serra.

No. 81.

A.D. 1345-6. the return.—And the avowry was entered, and the parties were further at a traverse on the place of taking.

*Quare
impedit.*

(81.) § The King brought a *Quare impedit* against the Bishop of Norwich, and counted that King John was seised, and presented, and gave the advowson to a Prior of St. Bartholomew in frankalmoign, to hold of him and his heirs, and that afterwards a Prior, without the King's license, and contrary to the law of the land, aliened the advowson to the Bishop's predecessor in mortmain, &c., and that therefore the right to present accrued to the King, &c. —*Rokel*. We tell you that King John had not anything in the advowson, and that his clerk was not admitted on his presentation (but that a clerk was

No. 31.

Et lavowere est entre, et outre les parties sont a travers sur le lieu.¹ A.D. 1345-6.

(31.)² § Le Roi porta *Quare impedit* vers Levesque de Norwycz,³ countant qe le Roi Johan fut seisi, et presenta,⁴ et dona lavowesoun a Prior de Seynt Berthelmeu en fraunk almoigne, a tenir de luy et ses heirs, et qun Priour apres, saunz conge le Roi, et countre la ley de la terre, aliena lavowesoun al predecessour Levesque en mort meyn, &c., par quei dreit de presenter acrust au Roi, &c.⁵—*Rokel*. Nous vous dioms qe le Roi J. navoit rienz en lavowesoun,⁶ ne celuy clerk resceu a soun presentement, einz al

¹ The plea, upon which issue was joined, was, according to the record, "Willelmus le Yonge dicit quod "prædictus Thomas Lestraunge "captionem prædictam justam ad- "vocare non potest, quia dicit quod "prædictus locus de Brome, in quo " &c., est in villa de Urlesneese, "sicut ipse superius queritur, et "non in prædicta villa de Foxtone "in Shrewardyneshome proutidem "Thomas advocavit."

The award of the *Venire* follows on the roll, but nothing further.

² From the four MSS., as above, but corrected by the record, *Placita de Banco*, Hil., 20 Edw. III., R^o. 331, d. It there appears that the action was brought by the King against William, Bishop of Norwich, in respect of a presentation to the church of "Belton juxta Jerne-muthe" (Belton-by-Yarmouth).

³ H., Norwiz; C., Northwike.

⁴ The words et presenta are omitted from C.

⁵ The declaration was, according to the record, "quod quidam "Johannes quondam Rex Angliæ, "consanguineus domini Regis, fuit "seisitus de advocacione ecclesiæ

"prædictæ, et ad eam præsentavit "quendam Petrum Buk, clericum "suum, qui ad præsentationem "suam fuit admissus et institutus, ". post cujus mortem "prædicta ecclesia modo vacat, &c., "qui Johannes Rex advocacionem "illam dedit et concessit cuidam "Priori de Sancto Bartholomæo in "Smythefelde Londoniarum, tenen- "dam sibi et successoribus suis in "pura et perpetua eleemosyna in "perpetuum. Et postmodum Prior "Sancti Bartholomæi prædicti qui "tunc fuit et ejusdem loci Conven- "tus, tempore Regis avi domini "Regis nunc, eandem advocacionem "alienavit cuidam Waltero tunc "Episcopi Norwycensi, prædecessori "prædicti Episcopi nunc, sine "licentia et voluntate ejusdem "Regis avi, &c., per quod jus præ- "sentandi ad eandem ecclesiam "accrevit eidem Regi avo, &c. "[The descent from Edward I. to "Edward III. is then set out.] Et "ea ratione ad dominum Regem "nunc pertinet ad prædictam "ecclesiam præsentare."

⁶ C., lavowere.

No. 81.

A.D.
1345-6.

admitted on the presentation of our predecessor), and that King John did not give as above, but we tell you that we and our predecessors have been seised of the advowson from time whereof there is no memory; judgment whether the King will be answered as to this writ.—*Thorpe*. Which plea among all those do you give for answer to the King?—*Pole*. It is necessary for us to have them all, because, if we were to mention only one, you would fix it upon us that we had not denied the other points.—*Thorpe*. In God's name let their answer be entered.—And so it was.—And they were adjourned, &c.¹

¹ For another report of the case which is continued further, *see* below, Easter, No. 37. For the conclusion of the case as it appears on the record, *see* p. 105 note 5

No. 31.

presentement nostre predecessour, ne le Roi J. ne dona pas *ut supra*, mes vous dioms qe nous et noz predecessours avoms este seisi de lavowesoun de temps dount memore, &c.; jugement si le Roi a ceo brief voille estre respondu.¹—*Thorpe*. Quele plee de toux ceux² donez vous pur respons au Roi?—*Pole*. Il nous covient aver toux, qar si nous parlasons forqe dun, vous relieretz sur nous qe nous ussoms pas dedit les autres pointz.³—*Thorpe*. De par⁴ Dieux soit lour respouns entre.—*Et ita est*.—*Et adjournantur*,⁵ &c.

A.D.
1345-6.

¹ The plea on behalf of the Bishop was, according to the record, "quod ipse seisisus est de advocacione ecclesie de Beltone predictæ ut de jure Episcopatus sui predicti, et ipse Episcopus et omnes predecessores sui Episcopi loci predicti, a tempore quo non extat memoria, semper seisisiti fuerunt de eadem advocacione ut de jure ejusdem Episcopatus, &c., absque hoc quod predictus Johannes Rex, &c., seisisitus fuit de advocacione illa, vel predictus Petrus admissus fuit et institutus in ecclesia predicta ad presentacionem ejusdem Johannis Regis, &c., et absque hoc quod idem Johannes Rex advocacionem illam dedit et concessit prefato Priori, vel quod predictus Prior eandem advocacionem alienavit prefato Waltero Episcopo, &c., prout dominus Rex per demonstrationem suam predictam supponit. Et hoc paratus est verificare, &c."

² C., ces.

³ pointz is omitted from C.

⁴ H., part.

⁵ According to the roll there was an adjournment, as stated in the report. On the day given (the Quinzaine of Easter) "Quia visum

"est Curie quod verificatio patrie super predictis quatuor responsionibus non est admittenda, dictum est prefato Episcopo quod eligat unam de predictis responsionibus, si, &c.

"Et idem Episcopus, non cognoscendo quod predictus Johannes Rex fuit seisisitus de advocacione predicta, nec quod idem Johannes Rex advocacionem illam dedit prefato Priori, nec quod idem Prior advocacionem illam alienavit prefato Waltero Episcopo, dicit quod predictus Petrus non fuit admissus et institutus in ecclesia predicta ad presentacionem prefati Johannis Regis, sicut dominus Rex nunc in demonstratione sua supposit.

"Et super hoc Johannes [de Clone] qui sequitur. &c., dicit Ex quo dictus Episcopus pro finali responsione dedit quoddam responsum quod est multiplex, in se continens diversas responsiones peremptorias ad actionem domini Regis, et sic dicta responsio de jure non est admittenda, et super qua responsione idem Episcopus adjornatus fuit, et postmodum plures dilaciones cepit, per quod variare a

No. 32.

A.D. (32.) § A writ of Covenant was heretofore brought,
1345-6. in respect of a term, by a lessee against a lessor.
Coven . The defendant alleged that there were divers
covenants limited between them by indenture relating
to payment of rent and other matters, and justified
his entry on the ground of breach of the conditions.
The plaintiff alleged that he tendered the rent on
the appointed day, and had been at all times ready
to pay it, and also that he observed all the other
covenants. And with regard to all the covenants
broken and the non-tender of the rent they pleaded
to issue to a jury. And the jurors now came, and
said as to all the covenants that they had been
observed, except the payment of the rent, and as to
that they said that, whereas the plaintiff ought to
have paid eight marks on the appointed day, he
paid six marks on the day, but that he did not pay

No. 32.

(32.)¹ § Covenant autrefoith porte dun terme entre le lessour et le lesse. Le defendant alleggea divers covenantz taillez entre eux par endenture² de paiement de rente et dautre chose, et pur enfreindre de les condicions avowa son entre. Le pleintif alleggea qil tendi la rente au jour assis, et tut temps fut prest, et auxint qil tient toux les autres covenantz. Et sur toux les covenantz enfreintz et sur la nient tendre³ de la rente descendirent en enqueste, qe vint ore, et disoient quant a toux les covenantz⁴ qils furount tenuz, saufe paiement de la rente, et, quant a cel, la ou il dust aver paie viij. marcz au jour, ils disoient qil paia les vj. marcz au

A.D.
1345-6.
Covenant.
[Fitz.,
Judgement,
177.]

“responsione prædicta, et maxime
“postquam responsio sua tanquam
“invalida per ipsum dominum
“Regem calumniata fuit, admitti
“non debet, et ex quo idem Epis-
“copus modo primam suam
“responsionem in omnibus non
“præstendit verificare, sed plures
“verificationes per ipsum Epis-
“copum superius præstensas modo
“non manutinet, petit judicium
“pro domino Rege, &c.”

There was a further adjourn-
ment to the Octaves of Trinity,
“ad quam diem idem Johannes
“qui sequitur, &c., dicit quod ubi
“prædictus Episcopus in re-
“sponsione sua prædicta supponit
“prædictum Priorem de Sancto
“Bartholomæo non alienasse
“advocationem prædictam præfato
“Waltero Episcopo sine licentia
“domini Regis, &c., idem Prior
“alienavit eandem advocationem
“prædicto Waltero Episcopo sine
“licentia et voluntate domini
“Regis, sicut Rex superius in
“demonstratione sua supponit.”

Issue was joined upon this.

After further adjournments a

verdict was found on the Octaves
of St. Martin in the 21st year of the
reign, “quod prædictus Prior non
“alienavit advocationem prædictam
“præfato Waltero Episcopo, tem-
“pore prædicti Edwardi Regis avi
“domini Regis nunc, nec unquam
“postea, sicut dominus Rex in
“demonstratione sua supponit.
“Quæsitum est a præfatis juratori-
“bus si aliquis Prior Sancti Bar-
“tholomæi unquam fuit seisis de
“advocatione prædicti et eam
“alienavit. Dicunt quod quidam
“Prior Sancti Bartholomæi aliquo
“tempore fuit seisis de advoca-
“tione prædicta et eam alienavit,
“sed non tempore Edwardi Regis avi
“domini Regis nunc, nec tempore
“Edwardi patris, &c., nec tempore
“domini Regis nunc. Quæsi-
“tempore cujus Regis, &c., dicunt
“quod ignorant.”

There are several further
adjournments, but nothing beyond.

¹ From the four MSS., as above.

² The words par endenture are
omitted from C.

³ C., paier.

⁴ C., autres.

No. 38.

A.D.
1345-6.

the other two marks, nor tender them, on the day ; therefore, a long time afterwards, the defendant entered, by reason of the rent being in arrear, on a certain day before dinner ; and after dinner on the same day the plaintiff came and tendered to the defendant the two marks, and the defendant refused them, and kept himself in possession of the land. And now the plaintiff also tendered the money in Court. And the COURT looked at the indenture, which purported that the lessor might enter, and hold until satisfaction had been made to him, &c. And he was asked by the COURT whether he would accept the two marks, and in the end he did accept them. Therefore judgment was given that he should recover the rest of the term which was yet unexpired (because the COURT understood that the term was still unexpired), and damages, &c. And afterwards they saw by the indenture that the whole term was ended, and therefore they gave judgment relating entirely to damages.—*Quere* as to this judgment, since with regard to the tender of the rent the reverse of the plaintiff's mise was found.—And observe that this judgment is much strengthened by the fact that the defendant now accepted the two marks.

*Quere
impedit.*

(33.)¹ § The King brought a *Quare impedit* against the Abbot of Abingdon, counting that one J. was seised of the advowson, and presented, and that J. aliened the advowson to the Abbot without the King's licence. And it was heretofore pleaded for the Abbot (with a protestation, that he did not admit that this J. was seised of the advowson, nor the alienation, &c.) that the clerk whom the King counted to have been admitted on J.'s presentation was not admitted on J.'s presentation ; and upon that the Bishop tendered averment for issue of

¹ For the commencement of this case and the record, see Y.B., Mich. 19 Edw. III., No. 77.

No. 38.

jour, mes les deux marcz il ne paia pas ne tendi a cel jour; par quei, grant temps apres, le defendant entra pur la rente arrere a certain jour devant manger; et apres manger mesme le jour le pleintif vint et luy tendi les deux marcz, et il les refusa, et se tient einz en la terre. Et ore en Court le pleintif tendist auxint les deners. Et la Court vist lendenture, qe voleit qil purreit entrer et retener tanqe gree luy fut fait, &c. Et demande luy fut par Court sil voleit resceivre les deux marcz, et a drein il les resceut. Par quei agarde fut qil recoverast le remenant de terme qest a venir,¹ pur ceo qe Court entendist qe ceo ust este deinz le terme unqore, et les damages, &c. Et puis virent par lendenture qe tut le terme fut fini, par quei ils agarderent tut en damages.—*Quære de isto iudicio*, depuis qen droit del tendre de la rente le revers de la mise del pleintif fut trove.—Et *vide* qe le jugement est bien afforcee de ceo qe le defendant resceut ore les deux marcz.

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1345-6

(38.)² § Le Roi porta *Quære impedit* vers Labbe de Abyndone, countant qun J. fut seisi del avowesoun,³ et presenta, et qe J. aliena lavowesoun al Abbe saunz conge le Roi, &c. Et autrefoith fut plede, fesaunt protestacion pur Labbe qil ne conissat pas celuy J. estre seisi del avowesoun, ne lalienacion, &c., qe celuy clerk qe⁴ le Roi counta estre resceu al presentement J. ne fut pas resceu al presentement J.; et sur ceo Labbe tendi averement pur issue de

*Quære
impedit.*¹ H., *venier*.² From the four MSS., as above.³ The words del avowessoun are omitted from C.⁴ C., *qi*.

No. 33.

A.D.
1345-6.

the plea. And it was then replied for the King that, since the Abbot did not deny that J. was seised of the advowson, nor that he aliened it as above, which was the King's title in right, and since that title was not destroyed by such an answer, therefore judgment was prayed for the King, and a writ to the Bishop. And the Abbot then said that the writ of *Quare impedit* was a possessory writ, and that he had destroyed by this answer the possession from which the King took his title, and upon that he demanded judgment. And upon this they were adjourned until now.—*Derworthy*. It seems that the King is sufficiently answered since he could not have declaration or count without mentioning a presentation, and the presentation which he has taken for title of possession, without which he could not have counted, we have so traversed that our answer ought to suffice.—*Thorpe*. The alienation made by J. to the Abbot is the King's title, and that remains unanswered, and particularly with regard to this writ which is, in this action, both a writ relating to the possession and a writ relating to the right, because the King ought not to have any other writ on such matter. And, as to that which they say that the possession is destroyed by their answer, it does not seem to be so, inasmuch as, even without any presentation he could have possession in many ways, by purchase, or by descent, so that the King's title stands unanswered.—*Stonore* to *Derworthy*. Will you say anything else?—*Pole*. We tell you that the person whom they allege to have been admitted on J.'s presentation was admitted on the presentation of our predecessor, and we and our predecessors have held the advowson as appendant to the manor of B. from time whereof memory, &c., and that J. never had anything in the advowson, and that his

No. 88.

plee. Et adonques fut replie pur le Roi, del heure
 qe Labbe ne dedit pas qil fust seisi del avowesoun,
 ne qil aliena *ut supra*, quel¹ fut le tittle le Roi en
 dreit, et ceo ne fust pas destruit par tiel respons
 par quei jugement fut prie pur le Roi et brief al
 Evesqe. Et Labbe adonques dist qe ceo fut brief de
 possessioun, et la possessioun de quel le Roi prist
 son² tittle il avoit destruit par cel respons, et sur
 ceo demanda jugement. Et sur ceo furent ajournez
 tanqa ore.—*Der.* Il semble qe le Roi est suffisaunt-
 ment respondu del heure qil ne poait aver
 monstraunce ne counte saunz parler de presentement,
 et le presentement quel il ad pris pur tittle de
 possession, saunz quel il ne poait aver counte, si
 avoms traverse qe cella deit suffire.—*Thorpe.*
 Lalienacion de³ J. fet al Abbe est le tittle le Roi,
 quel demoert nient respondu, et nomement a cest
 brief qest en ceste accion et brief de possessioun et
 brief de dreit, pur ceo qautre brief ne deit⁴ le Roi
 aver sur tiel matere. Et a ceo qe ils parlent qe la
 possession est destruit par lour respons, ceo ne
 semble il pas, desicome tut saunz presentement il
 put aver la possession par moultz des voies, par
 purchace ou par descente, issint esta le tittle le
 Roi nient respondu.—*Ston.* a *Der.* Voilletz autre
 chose dire?—*Pole.* Nous vous dioms qe celui qils
 dient estre resceu al presentement J. fut resceu al
 presentement nostre predecessour, et nous et noz
 predecessours avoms tenu lavowesoun come appendant
 al maner de B. de temps dount memore, &c., et qe
 J. navoit unques rienz en lavowesoun ne son presente

A.D.
1345-6.¹ C., qe.² C., pur son.³ H., de quel.⁴ C., poet.

No. 33.

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1345-6.

presentee was not admitted as above, and that he did not aliene; ready, &c.—*Thorpe*. You cannot be admitted to plead that, inasmuch as heretofore you definitely took a traverse for your answer to the King, and thereon abode judgment whether it could destroy the King's title or not, and upon that you are adjourned; to take now a new plea, and one contrariant to matter held as not denied by you by your first answer, you shall not be admitted, because by your first abiding of judgment John's seisin of the advowson and the alienation which you would now traverse must be held as not denied.—*Derworthy*. We heretofore made protestation that we do not admit this matter, and we now tender an averment to the same effect, as our protestation at that time saved to us the advantage of doing so; therefore you cannot fix upon us these matters as not denied except in the issue of the plea in case the reverse of our mise should be found.—*WILLOUGHBY, ad idem*. They hold to their first answer by way of traverse, and the rest of that which they say is only in order to have a writ to the Bishop.—*Grene*. It is not so, for they hold to it for issue of the plea; and that appears clearly when they put their statement by way of averment; and on behalf of the King we demand judgment absolutely whether they ought to be admitted to make any other answer than that which is entered on the roll, and upon which we have pleaded to judgment, and upon which we are adjourned.—*STONORE to Pole*. We have looked at the roll, and at your plea on which you heretofore abode judgment, and we see that you cannot in any way be admitted to make any other answer than the first; therefore we hold you to be abiding judgment on the same point as you then were; but because we are not advised whether this averment

No. 33.

resceu *ut supra*, ne qil aliena pas ; prest, &c.—*Thorpe*.
 A ceo ne poietz estre resceu, desicome autrefoith
 vous preistes en certeyn travers pur respons au Roi,
 et sur ceo demurastes en jugement le quel il purreit
 destruire¹ le title le Roi ou nient, et sur ceo estes
 ajourne ; ore de prendre novel plee et contrariaunt a
 chose tenu nient dedit de vous par vostre primer
 respons vous ne serrez resceu, qar par vostre primere
 demure en jugement covient tenir a nient dedit la²
 seisine Johan de lavowesoun et lalienacion quel
 vous vodrietz ore traverser.—*Der*. Nous feimes
 autrefoith protestacion qe nous ne conissoms pas
 cele chose, quele nous tendoms ore daverer, issint
 qe nostre protestacion nous sauva adonques lavantage ;
 par quei vous ne poietz lier sur nous celes choses
 come nient dedites forgen issue de plee, qe
 revers³ de nostre mise⁴ fut⁵ trove.—*WILBY, ad idem*.
 Ils se tenent sur lour⁶ primer respons en travers,
 et le remenant ceo qils dient ceo nest forge pur
 aver brief al Evesqe.—*Grene*. Il nest pas issi, qar
 ils le tendount pur issue de plee ; et ceo piert bien
 quant ils mettount lour dit en averement ; et nous
 demandoms jugement pur le Roi tut atrenche si a
 nul autre respons qe a cel qest entre en roulle, et
 sur quel nous sumes descendu en jugement, et sur
 quel nous sumes ajourne, sils⁷ deivent avener.—*Ston*.
 a *Pole*. Nous avoms regarde le roulle, et vostre
 plee sur quel⁸ vous demurastes autrefoith en
 jugement, et nous veioms qen nulle manere poietz
 avenir a autre respons que le primer ; par quei
 nous vous tenoms en mesme le point qe adonques
 fuistes⁹ ; mes pur ceo qe nous ne sumes pas avise
 si cel averement soit receivable ou nient en

A.D.
1345-6.

¹ H., and I., destrure.

² H., and I., de la.

³ C., le revers.

⁴ H., and I., title.

⁵ H., and I., nulle fut.

⁶ All the MSS. except C., le.

⁷ C., qils.

⁸ C., quei.

⁹ H., futes.

No. 34.

A.D. 1345-6. is admissible or not in this case, keep your days at the Quinzaine of Easter, &c.¹

Dower.

(34.) § Dower. The tenant vouched to warrant the husband's heir, who was in the wardship of the demandant, and she appeared, by attorney, to a summons, as the person who was vouched, and she said by *Gaynesford* that she had nothing of the heir's inheritance in wardship, nor had she on the day of the voucher, and she demanded judgment of the voucher.—And the woman in her own person prayed her dower.—*Birton*. She had and has sufficient; ready, &c.—*Gaynesford*. You will not have the averment in this case, because the voucher is in the same county.—*HILLARY*. Is it not right that, when you yourself plead in abatement of the voucher, you should be delayed as to your dower, until this be tried? For in case you have sufficient you will recover against yourself, and the tenant will hold in peace.—*Gaynesford*. That is true; such will be the judgment; and therefore the judgment will be rendered at once conditionally, because the averment, since the voucher is in the same county, will serve for nothing.—And afterwards the Court gave

¹ The report is continued in Y.B., Easter, 20 Edw. III., No. 50, and Mich., No. 74.

No. 84.

ceo cas, gardez voz jours a la xv^e de Pasche, A.D.
1345-6.
&c.¹

(84.)² § Dowere. Le tenant voucha a garrant Dowere. loire le baron en la garde la demandante, et ele vint par somons par attourne,³ come cele qe fut vouche, et dit par *Gayn.* qele navoit rienz en garde, ne navoit jour de voucher, del heritage leire, et demanda jugement del voucher.⁴—Et la femme en propre persone pria soun dowere.—*Birtone.* Ele avoit et ad assetz; prest, &c.⁵—*Gayn.* Vous naveretz pas laverement en ceo cas, qar le voucher est en mesme le counte.—*HILL.* Nest il pas resoun, quant vous mesmes pledetz al abatement de voucher, qe vous soietz delaye de vostre dowere, tanqe ceo soit trie? Qar en cas qe vous eietz assetz vous recovrerez vers vous mesmes, et le tenant tendra en pees.—*Gayn.* Il est verite; le jugement serra tiel; et pur ceo serra le jugement rendu maintenant sur condicion, qar laverement, del houre qe le voucher est en mesme le counte, servira de nient.—Et puis

¹ In C. there are added the words
Quere principium supra.

² From the four MSS., as above, but corrected by the record, *Placita de Banco*, Hil., 20 Edw. III., R^o 406. It there appears that the action was brought by Matilda, late wife of Hugh le Warener of Reigate, against John le Skynner of Reigate, in respect of a third part of three acres of land and three acres of wood in Reigate (Surrey), and against William le Baker of Reigate, in respect of a third part of three acres of land and three acres of wood in Reigate. Both tenants alleged that the tenements were less in quantity than supposed by the demandant, and each severally vouched to warrant Richard son and heir of the aforesaid Hugh,

"cujus corpus et terræ sunt in
"custodia prædictæ Matildis,
"matris ipsius Ricardi, ratione
"nutrituræ, &c."

³ The words par attourne are from C. alone.

⁴ According to the record the demandant "non potest dedicere
"quin prædictus heres tenetur eis
"tenementa prædicta warrantizare,
"sed dicit quod ipsa nihil habet
"in custodia de hereditate præ-
"dicti Ricardi, &c."

⁵ According to the record, "præ-
"dicti Johannes et Willelmus
"dicunt quod prædicta Matildis
"habet in custodia terras et tene-
"menta de hereditate prædicti
"heredis ad sufficienciam, &c.,
"unde, &c."

No. 35.

A.D. judgment that the demandant should recover against
1345-6. herself if she had sufficient in wardship of the heir's
inheritance, and if not against the tenant, and he
over against the heir, when, &c.

Liberty. (35.) § The privilege of a liberty was demanded
by the bailiffs of a town, that is to say, to have
cognisance of a plea before themselves, and they alleged
allowance of cognisance on a previous occasion, and
produced a charter of their liberty and a writ to
allow it. And because the charter purported only
that King John had granted that the townsmen should
not be impleaded or implead in respect of contracts,
covenants, trespasses, or tenures within the town, any-
where except in the town itself, and it did not mention
before whom the pleas were to be held, the Court would
not grant them cognisance, nor allow the liberty.
For *Thorpe* said that, in case of Assises, upon such
a franchise, the Justices who could sit in what court
in the county they might please would allow the
franchise with regard to the place, and would them-
selves go into the liberty, and hold the plea; but
the Justices of the Court of Common Pleas must
hold the pleas in a certain court, and cannot make
such allowance of cognisance, and therefore the
charter is void, because cognisance is not taken away
from the King's Court.

No. 35.

la Court agarda qe la demandante recoverast vers luy mesme, si, &c., et si noun vers le tenant, et il outre quant, &c.¹ A.D. 1345-6.

(35.)² § Fraunchise fut demande par baillifs dune ville pur aver la conissaunce devant eux mesmes, et alleggerent allowaunce autrefoith, et moustra chartre de lour fraunchise et brief dallowere la. Et pur ceo qe la chartre ne voleit mes qe le Roy Johan avoit³ graunte qils ne serrount nulle part empledés nenpledreint des contractz, covenantz, trespas,⁴ ne des tenures⁵ deinz la ville forgen la ville,⁶ et ne dit pas devant qi a tenir, la Court ne voleit pas granter a eux la conissance, ne allowere la fraunchise. Qar *Thorpe* dit qen cas Dassise sur tiel fraunchise les Justices qe pount seer en quel place qils volent de counte allowerent la fraunchise, quant au lieu, et irrent mesmes deinz la fraunchise et tiendrent le plee⁷; mes les Justices de la comune place covient tenir les plees en certain place, et ils ne pount pas faire tiel allowaunce, par quey la chartre est voide, pur ceo qe la conissaunce nest pas ouste de la place le Roi.¹⁰

¹ According to the roll :—" Et eadem Matilldis petit dotem sibi adjudicari, &c. Ideo consideratum est quod, si prædicta Matilldis satis habeat in custodia de hereditate prædicti heredis quæ ei descendit in feodo simplici post mortem prædicti Hugonis patris sui, tunc eadem Matilldis habeat inde dotem suam, et prædicti Johannes et Willelmus teneant in pace. Et, si quid ei inde defuerit, id habeat de prædictis tenementis versus prædictos Johannem et Willelmum petitis, &c. Et iidem Willelmus et Johannes habeant de terra præ-

dicti heredis ad valentiam, &c. " Et prædicta Matilldis in misericordia, &c."

² From the four MSS., as above.

³ The marginal note is omitted from C.

⁴ So in all the MSS.

⁵ C., les avoit.

⁶ C., trans.

⁷ H., and I., ou detenues, instead of ne des tenures.

⁸ The words forgen la ville are from C. alone.

⁹ C., les plees, instead of le plee.

¹⁰ The words le Roi are omitted from C.

Nos. 40, 41.

A.D. 1345-6. might be recorded, and that the essoin cast for his attorney might be quashed.—And so it was.

Account. (40.) § *Moubray* counted, on a writ of Account, of a receipt of money partly in York and partly at Ripon. And in respect of the receipt at York the bailiffs of the town prayed cognisance of the plea; and in respect of the receipt at Ripon the bailiffs of the Archbishop of York prayed cognisance. And the Court was minded to abate the writ, because they could not grant the cognisance by parcels. Therefore the plaintiff afterwards assigned the receipt entirely in Ripon, and cognisance was granted to the Archbishop's bailiff. And the person against whom the writ was brought had previously brought a writ of Account against the present plaintiff, and now alleged that he had been excommunicated, and made *profert* of the Archbishop's letter of excommunication, and (said the defendant's counsel) we do not understand that he ought to be answered.—*Skipwith*. You shall not be admitted to say that, because you have counted against me as against a person who is competent to answer, and consequently entitled to be answered.

Note. (41.) § Note that a woman brought a writ against two persons by several *Præcipes*, and one of the two pleaded to the inquest. And afterwards at *Nisi prius* in the country nonsuit was recorded on that *Præcipe*, and in the Common Bench judgment was rendered on the nonsuit with regard to the whole writ.—See above for like matter.

Nos. 40, 41.

recorde, et qe lessone gettu pur son attourne fut A.D. 1345-6.
 quasse.—*Et ita fuit, &c.*

(40.)¹ § *Moubray* counta en brief Dacompte de Acompte.
 resceite partie en Everwyke et partie a Ripoun. Et [Fitz.,
 del receite a E. les baillifs de la ville demanderent Conu-
 la conissaunce; et de la resceite a Ripoun les sauns,
 baillifs Lercevesqe de E. demanderent la conissaunce. 85.]
 Et la Court fut del entente daver abatu le brief,
 pur ceo qils ne purreint graunter la conissaunce
 par parcelles. Par quei apres il assigna tut la
 receite en R., et la conissaunce graunte al bailiff
 Lercevesqe. Et celui vers qi le brief est porte
 autrefoith porta un brief Dacompte vers celui qest
 ore pleintif, et ore il allegge qil fut escomenge, et
 myst avant la lettre Lercevesqe, et nentendoms qil
 dust estre respondu.—*Skip.* A ceo navendretz pas,
 qar vous avetz counte vers moi come vers homme
 qe purra respoudre, *per consequens* responsable.

(41.)² § *Nota* qune femme porta brief vers deux Nota.
 par severals *Præcipe*, dount lun pleda al enqueste. [Fitz.,
 Et al *Nisi prius* puis en pays la nounsuite en cel Nonsuit,
Præcipe fuit recorde, et en Bank jugement rendu sur 26]
 la nounsuite a tut le brief.—*Vide de tali materia*
supra.

¹ From H., and I| ² From C. alone.

EASTER TERM
IN THE
TWENTIETH YEAR OF THE REIGN OF
KING EDWARD THE THIRD.

EASTER TERM IN THE TWENTIETH YEAR OF
THE REIGN OF KING EDWARD THE THIRD.

No. 1.

A.D. 1346. (1.) § John Foleville, and his wife, and two other
Assise of husbands, and their wives brought an Assise of Novel
Novel Disseisin. Disseisin against a woman in the county of L.,
before THORPE. The tenant said, by *Grene*, that
there ought not be an Assise, because he said that
the tenements had been in the seisin of one G., who
took to wife one A., by whom he had issue two
daughters, to wit, the wife of John the plaintiff, and
the wife of the second plaintiff. A. died; G. took
another wife, B., on whom he begot the wife of the
third plaintiff; and afterwards a divorce was effected
between G. and B. for a certain cause; thereupon
G. took to wife the present tenant by whom he had
issue a son R. This G. died seised of the same land,
and after his death the Abbot of Peterborough, of
whom the said land was holden by knight service,
seised the wardship by reason of the non-age of the
said R. And those who are plaintiffs, claiming to have
the land by succession of inheritance, on the ground
that they were daughters, abated on the possession
of the said R., and the Abbot, as guardian, ousted
them. And afterwards the Abbot assigned these same
tenements [to the defendant] to hold in dower, in
satisfaction, &c., and (said *Grene*) we demand judg-
ment whether they ought to have an Assise in respect
of such an estate.—*Skipwith*. Sir, you see plainly
how they rely upon two distinct matters; one is that

DE TERMINO PASCHÆ ANNO VICESIMO REGNI
REGIS EDWARDI TERTII.¹

No. 1.

(1.)² § Johan Foleville, et sa femme, et ij autres A.D. 1346. barouns, et lour femmes portèrent une Assise de *Assisa* novele disseisine vers une femme en le counte de *Novæ* L., devant THORPE. Le tenant dit, par *Grene*, qe *Disseisine* Assise ne doit estre, qar il dit qe les tenementz furount en la seisine un G., qe prist a femme une A., de qi il avoit issue ij filles, saver, la femme J. le pleintif, et la femme le secunde pleintif. A. murust; G. prist autre femme, B., de qi il engendra la femme le terce pleintif; et puis divors³ se prist entre G. et B. par certeyne cause; par quei G. prist a femme celuy qore est tenante, de qi il avoit un fitz R.; le quel G., murust seisi de mesme la terre, apres qi mort Labbe de Burgh Seynt Piere, de qi la dite terre fut tenu par service de chivaler, seisisit la garde par resoun del nounage le dit R. Et ceux qe sount pleintifs, clamantz⁴ daver la⁵ terre par succession deritage,⁶ la ou ils furent filles, abatirent sur la possession le dit R., et Labbe come gardeyn les ousta. Et puis Labbe assigna mesmes ceux tenementz a tenir en dowere en allowaunce &c., et demandoms jugement si de cel estat ils duissent⁷ Assise aver.—*Skip*. Sire, vous veetz⁸ bien coment ils relient sur deux choses; lun est de ceo

¹ The reports of this term are from the Lincoln's Inn MS. (called L.), the Harleian MS., No. 741 (called H.), the Cambridge MS., Hh. 2, 3 (called C.), and the Isham transcript.

² From H., and I. In I. the case is placed in Hilary Term next preceding.

³ I., devorce.

⁴ I., clamant.

⁵ I., la dite, instead of daver la.

⁶ I., de heritage.

⁷ I., dussoint.

⁸ I., veietz.

No. 1.

A.D. 1346. the defendant is tenant in dower to which she had become entitled at an earlier time, the other is the privity of blood between us and R., and the ouster by him, in which case, even though we might be able to aver that R. was a bastard, she would rely upon the argument against us that she is tenant in dower to which she became entitled at an earlier time, and would thereby bar us from Assise; and, moreover, even though we might be able to destroy her alleged tenancy in dower, that would not suffice for us without affirming the admitted possession; and therefore we pray the Assise.—*R. Thorpe*. It is not so: for when I have claimed my tenancy in dower, in the right of R., when if it were not in his right it would be in your right, and you could aver that R. was a bastard, that would suffice for you; for, if we claim to hold in the right of one who has not any right, we have forfeited our dower for ever; therefore an issue on the point will suffice for you; therefore, &c.—*Skipwith*. Then the force of your bar is the privity of blood, and the possession admitted to have been ours on another estate, and the ouster, which matters do not lie in your mouth, since your estate is not of R.'s estate, but of an estate which is tantamount to a defeasance of R.'s estate. And, moreover, since you claim dower in right of another, your conclusion ought to be that you will be ready to be attendant to whomsoever the Court may so adjudge, and not to plead the matter by way of bar. But it would be otherwise if we were the person in whose right you claim to hold, in which case you would plead in bar; therefore, &c.—*Grene*. If you were to bring a writ of Waste against me, supposing that I held in dower of your inheritance, and I were to show forth the matter that I now do, that is to

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qe ele est tenante en dowerre dun eisne temps ^{A D. 1346} deservi, un autre la privete de saunke¹ entre nous et R., et luster par luy, en quel cas, mesqe nous purroms averer qe R. fut bastarde, ele² reliereit sur nous quele est tenante en dowerre deigne³ temps deservi, et par tant nous barrer dassise; et auxi, mesqe nous purroms destrure sa tenance en dowerre, ceo nous suffiereit pas saunz affermer la possession conu; par quei nous prioms Lassise.—[R.] *Thorpe*. Il nest pas issi: qar quant jai⁴ clame ma tenance en dowerre en le dreit R., la ou sil ne fut il serreit⁵ en vostre dreit, et vous purrez⁶ averer qe R. fust bastarde, il vous suffiereit; qar, si nous clamoms a tenir en le dreit celui qe nad pas dreit, nous avoms forfait nostre dowerre a touz jours; par quei un issue sur le point vous poet suffire; par quei, &c.—*Skip*. Donques la force de vostre barre est la privete de saunke, et la possession conu a nous sur autre estat, et luster, queles choses ne gisent pas en vostre bouche, puis qe vostre estat nest pas del estat R. [mes dun estat qe amoute en defesaunce del estat R.].⁷ Et auxi, puis qe vous clametz dowerre en autri dreit, vostre conclusion serra qe vous serretz⁸ prest destre entendant a qi qe la Court agarde, et ne mye a pleder la chose par voye de barre. Mes autre serreit si nous fuissoms celui en qi dreit⁹ vous clametz a tenir, en quel cas vous pledrez en barre; par quei, &c.—*Grene*. Si vous portassez¹⁰ un brief de Wast vers moi, supposant qe jeo tenisse¹¹ en dowerre de vostre heritage, et jeo moustrace la matere qe jeo face a

¹ I., saung.² H., R.³ I., de eisne.⁴ I., jeo ay.⁵ I., serre.⁶ I., purrietz.⁷ The words between brackets are omitted from I.⁸ I., estes.⁹ I., autre dreit.¹⁰ I., portastes.¹¹ I., tenusse.

No. 1.

A.D. 1346. say that the reversion was to R., as above, I should put you to answer to his existence, so that you would not have the general averment that we hold of your inheritance; so also in this case, since your writ is general, and I have admitted an inheritance in you on the supposition that R. has not any existence, but that fact I shall have by surmise on this original, since your title depends on the possession of each. And as to your statement that it does not lie in our mouth to allege privity of blood, it does so lie, because we show that our estate is dependent on the estate of the person who was the common ancestor, and that by title from him; for if tenant by the curtesy of England be ousted by his wife's brother, and he oust that brother afterwards, he can well plead in bar on the ground that the brother claims to be heir to his wife, whereas she had a son, thus abating on his possession, and that he ousted the brother, because he admits an inheritance in the brother on the supposition that there is not in existence any son to hold to his right; so also in this case.—*Haverlyngton*. As to the writ of Waste of which you speak, the writ is of one form for purchaser and for heir alike, and therefore what you say would not be a plea; and, even though it could be, inasmuch as by the writ he supposes inheritance in himself, it is a sufficient answer to show the contrary; but in this case you do not affirm your estate to be through the person who entered, but rather in defeasance of his estate; therefore it does not lie in your mouth to allege ouster effected on us by a stranger, on whom your estate is not dependent. And, as to the other point, tenant by the curtesy of England has possession immediately after the death of the wife, without demanding it of anyone; therefore whosoever enters

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ore, saver, qe la reversion fut a R., *ut supra*, jeo ^{A.D. 1346.} vous mettroi de¹ respoondre a² soun estre, si qe vous naverez averement general qe nous tenoms de vostre heritage; auxi en ceo cas, puis qe vostre brief est general, et jeo vous eye conu un enheritaunce si lestre³ R. ne fust, quele chose averay par surmis en ceste original, puis qe vostre title est de chescune possession, &c. Et a ceo qe vous parlez qil ne gist pas en nostre bouche dallegger la privete de saunke, si fait, qar nous mostroms qe nostre estat est dependaunt del estat celuy qe fut comune auncestre, et ceo par title de luy; qar si tenant par la leye Dengleterre soit ouste par le frere sa femme, et il le ouste apres, il pledra bien en barre par taunt qil cleyme destre heir a sa femme, la ou ele avoit fitz, abatan⁴ sur sa⁵ possession, et il luy ousta pur ceo qil luy conust une enheritaunce si lestre³ le fitz ne fust a tenir a soun dreit; auxi en ceo cas.—*Hav.* Al brief de Wast qe vous parlez le brief est tut dun forme pur purchaceour et pur heir, par quei il ne serra pas plee; et mesqil serra, pur ceo qe par⁶ le brief il suppose enheritaunce en luy, il suffist de moustrer⁷ le contraire; mes en ceo cas vous naffermetz pas vostre estat par celuy qe⁸ entra, mes puis toust eu defesaunce de son estat; par quei dallegger ouster fait a nous par estraunge, de qi⁹ vostre estat nest dependaunt, ne gist pas en vostre bouche. Et al¹⁰ autre point, tenant par la ley Dengleterre ad la possession immediatez apres la mort la femme, saunz le demander de nully¹¹; par quei qi qe entre sur sa⁵ possession il luy

¹ I., a.² I., en.³ H., le estre.⁴ H., abaty.⁵ I., la.⁶ par is omitted from L.⁷ I., conustre⁸ H., qi.⁹ I., par quei, instead of de qi.¹⁰ I., del.¹¹ I. nulluy.

No. 1.

A.D. 1346. upon his possession commits a tort against him; but tenant in dower who can have her dower only by demanding it, and not by entry, cannot allege an ouster effected by a stranger, as one who holds by the curtesy of England can that a stranger ousted himself.—W. THORPE. Will you say anything else in order to arrive at the Assise?—R. Thorpe. Sir, we understand that on the manner of his abiding judgment he will not be admitted to any other answer, because they are adjourned on that point.—THORPE (JUSTICE). If they say anything else, it will then have to be seen whether they shall be admitted or not; therefore, &c.—Skipwith. We have nothing else to say, but we pray the Assise.—SHARSHULLE. As properly as the inheritance by law descends to the heir after the death of the ancestor, so properly would her dower accrue to a wife; and then the elder will plead in bar against the younger by reason of the equal privity which exists between them and the common ancestor, and not by reason of the privity which there is between themselves, for the mulier will plead in bar against the bastard, and also one brother of the half-blood will plead in bar against the other by reason of the privity which is supposed between them and the common ancestor; now, even though the woman cannot make herself privy to the plaintiff, yet, since her dower would accrue to her by law as much as the two parts of the inheritance would to the heir, that privity between the common ancestor and her gives her the advantage of pleading in bar.—Skipwith. The cases are not alike, for where the brother of the half-blood pleads in bar he confesses an ouster effected by himself, in respect of which ouster it can be understood that the Assise is brought; but now she alleges an ouster effected by a guardian on whom her estate is not dependent, but it is dependent on the estate of her

No. 1.

fait tort; mes tenante en dowere qe lavera forqe A.D. 1346.
 par demander, et ne my par entre, ne poet allegger
 ouster fait par estraunge persone come poet celuy
 tenant par la ley Dengleterre qe lousta mesme.—
 W. THORPE. Volletz¹ autre chose dire pur carier al
 Assise.—*R. Thorpe.* Sire, nous entendoms qe sur la
 manere de sa demure qe il navendra a nulle autre
 respons, puis qe sur le point ils sount adjournes.—
 THORPE (JUSTICE). Sils dient autre chose, donques est
 ceo a veer sils avendront; par quei, &c.—*Skip.*
 Nous navoms autre chose a dire, mes prioms Lassise.
 —SCHS. Auxi proprement come² par ley apres la
 mort launcestre leritage³ descend al heir, auxi
 proprement acrestereit a la femme daver son⁴
 dowere; et puis⁵ leisne pledra en barre vers le
 puisne pur la privete owele qe demoert entre eux
 et le comune auncestre, et ne mye pur⁶ la privete
 qe est entre eux, qar le mulire pledra en barre
 vers le bastarde, et auxi lun frere de demy⁷ saunk
 pledra en barre devers lautre pur la privete qest
 suppose entre eux et le comune auncestre; ore,
 mesqe la femme ne se poet pas faire prive al
 pleintif, puis qe son dowere luy acrestereit par ley
 auxi bien come les ij parties al heir, cele privete
 entre le comune auncestre et luy la doune avantage
 de pledre en barre.—*Skip.* Ils ne sount pas
 semblables, qar la⁸ ou le frere de demi saunke
 plede en barre il conust un ouster fait par luy, et
 de quel ouster poet estre entendu qe Lassise est
 porte; mes ore⁹ ele allegge ouster fait par gardeyn
 de qi soun estat nest pas dependant, mes del estat

¹ I., voilletz.² come is omitted from H.³ I., le heritage.⁴ son is omitted from I.⁵ H., puisqe.⁶ H., sur.⁷ I., droit.⁸ la is omitted from H.⁹ ore is omitted from I.

No. 2.

A.D. 1346. husband ; therefore it cannot be supposed that the Assise is brought against her in respect of an ouster acknowledged by a stranger ; therefore, &c.—HILLARY. A feoffee enfeofed by an elder brother will plead in bar against the younger in respect of the ouster ; but if the younger can aver that the alleged feoffee had nothing by feoffment from the elder, that deprives him of his plea in bar ; so also in this case.—And afterwards the plaintiff was nonsuited, &c.

Waste. (2.) § A writ of Waste was brought against R. Fitz Payn and E. his wife. They pleaded :—No waste committed. At *Nisi prius* the husband made default. The Justices took the inquest, by which the waste was found. And now, in the Common Bench, the plaintiff prayed judgment. The wife prayed to be admitted, &c.—*Grene*. Since the inquest has passed in our favour, and in the country you did not pray to be admitted to defend your right, you have come too late. And, moreover, if an Assise of Novel Disseisin be brought against husband and wife, and [this Assise has been awarded] on their default, and the Assise remains to be taken for want of jurors, the wife will not be admitted on a subsequent day ; nor consequently will she in this case.—SHARSHULLE. That is not a like case ; for in case of Assise the husband has not a day in Court, but in this case the husband has now a day in Court, because the *Nisi prius* gives him a day on this present day unless the Justices come in the country. And, moreover, even if she had come and prayed to be admitted in the country, the Justices would not have been able to record the fact ; therefore let her be admitted.—And she pleaded :—No waste committed.—And the plaintiff prayed a day of grace.—SHARSHULLE. The husband holds by barony, and therefore you cannot have it.—*Thorpe*. The husband is out of Court, and therefore, &c.—SHARSHULLE. Nevertheless

No. 2.

soun baron; par quei del ouster conu par estraunge A.D. 1846.
 ne poet estre suppose qe Lassise luy soit porte;
 par quei [&c.].—HILL. Le feffe par le frere eisne
 pledra en barre vers le puisne par louser¹; mes
 si lautre purra averer qe il avoit rienz de son
 feffement il luy toude le plee en barre; auxi ycy.—
 Et puis le pleintif fuist nounsuy, &c.

(2.)² § Brief de Wast porte vers R. fitz Payn et Wast.
 E. sa femme. Ils plederent nul wast fait. Al Nisi [Fitz.,
prius le baron fit defaute. Les Justices pristent Resceit,
16.]
 lenqueste, par quele le wast fust trove. Et ore en
 comune Baunk le pleintif pria jugement. La femme
 pria destre resceu, &c.—Grene. Puis qe lenqueste
 est passe pur nous, et en pays vous ne priastes
 pas, vous estes venu³ trop tard. Et auxi si Assise
 de novele disseisine soit porte vers le baron et sa
 femme, et par lour defaute, lassise remeint a prendre
 par defaute des jurours, a lautre jour la femme ne
 serra pas resceu; *nec per consequens hic*.—SCHS.
Non est simile; qar en cas Dassise le baron nad
 pas jour en Court, mes en ceo cas le baron ad jour
 en Court a ore, qar le *Nisi prius* luy doune jour a
 ore si les Justices ne veignent en pays. Et auxi
 mesqe el ust venu en pays [et prie destre resceu]⁴
 ils ne purront recorder; par quei soit resceu.—Et
 ele pleda nul wast fait.—Et le pleintif pria jour de
 grace.—SCHS. Le baron tient par barone, par quei
 vous nel averetz pas.—Thorpe. Il est hors de
 Court, par quei, &c.—SCHS. Nequident la perde

¹ I., le ouster.

² From L., and I. In I, the case
 is placed in Hilary Term next pre-
 ceding.

³ I., venuz.

⁴ The words between brackets are
 omitted from H.

Nos. 3, 4.

A.D. 1346. the loss will fall upon him; we will consider.—And afterwards he had only a common day.

Dower. (3.) § Writ of Dower. The husband's heir, who was out of wardship, was vouched by a wife who was admitted to defend her right by reason of her husband's default. The Sheriff returned that he had nothing whereby he could be summoned. The vouchee was under age, and appeared, and entered into warranty, as one who had nothing by descent, &c., and rendered dower, &c. The wife was essoined; and, because no mention was made in the essoin of the fact that she had been admitted to defend her right, the essoin was quashed. And the wife's attorney proffered himself, and said, by *Birton*, that, since the Sheriff had returned no summons made upon the infant, he should not be admitted to warrant, or to render dower.—**SHARSHULLE.** Is he the same person as the person who is vouched, or not?—And because he did not deny that it was the same person that was vouched, judgment was given that the demandant should recover her dower against the heir if he had assets, and, if not, against the tenant, and the tenant over.

Appeal. (4.) § A citizen of London sued an Appeal of Robbery, and said that if the defendant would deny the robbery, he was ready to deraign it by his body against the man, and the man thereupon waged battle. The plaintiff said that the citizens of London have a franchise such that no battle shall be waged against any one of them, wherever the felony may be supposed to have been committed; and he said that he was a citizen, and demanded judgment whether the defendant should be admitted to such an issue of the plea. The defendant demanded judgment since the plaintiff had, in counting, tendered deraignment by his body, to which the defendant had rejoined, and that issue of the plea the plaintiff

Nos. 3, 4.

cherra sur luy; nous aviseroms.—Et puis il avoit A.D. 1346.
mes comune jour, &c.

(3.)¹ § Brief de Dowere. Leir² le baron fut vouche ^{Dowere.}
par une femme qe fut resceu par la defaute son ^{[Fitz.,}
baroun, hors de garde. Le Vicounte retourna qe il ^{Essone,}
navoit rienz dont estre somons. Le vouche fut ^{26;}
deinz age, et vient, et entra en garrantie, come ^{Voucher,}
celuy qe avoit riens par descende, &c., et rendi ^{126.]}
dowere, &c. La femme fut essone; et pur ceo qe
en lessone ne fut pas mencion fait qele fust resceu,
lessone fust quasse. Et lattourne la femme se profri,
et dit par *Birtone* qe puis le Vicounte ad retourne
nulle somons sur lenfaunt qe il ne serra pas resceu
de garrantir, ne de rendre.—Schs. Est il mesme la
persone qest vouche ou ne mye?—Et pur ceo qil³
ne dedit pas qil³ est mesme la persone qe fut vouche,
fut agarde qe la demandante recoverast soun dowere
vers le heir sil ust, et si nemye⁴ vers le tenant, et
il outre.

(4.)¹ § Un citizeyn de Loundres suyst un Appele de ^{Appel.}
Roberie, et dit qe si il put dedire prest est a deresner ^{[Fitz.,}
par soun corps vers un homme qe gagea la bataille. ^{Corone et}
Le pleintif dit qe les citizeyns de Londres ount tiele ^{Plee de}
fraunchise qe nul bataille serra gage vers nul deux,⁵ ^{Corone,}
en quele partie qe soit suppose la felonie; et dit ^{125.]}
qe il fut un de la cite, et demanda jugement si a
tiel issue de pleee serra resceu. Le defendant
demanda jugement, puis qe il avoit tendu en
countaunt deresne par soun corps, a quel il avoit
rejoint, quel issue de pleee il refuse; jugement.—

¹ From H., and I.

² I., le heir.

³ H., qele.

⁴ I., noun.

⁵ I., devers eux, instead of vers
nul deux.

Nos. 5, 6.

A.D. 1346. refused ; judgment.—*Skipwith*. The tender of deraignment is only a formal expression, for in an Appeal, when the mainour is alleged to have been found on the defendant, the plaintiff will tender deraignment, and if the defendant wage battle the plaintiff will then have it in his power to say that the defendant cannot be admitted to do so because of the mainour ; so also in this case, although the plaintiff tendered the deraignment, he can now say that he will not accept the wager of battle, because he is a citizen, as above.—The plaintiff went out to imparl, and afterwards came back *gratis* and joined battle.—The citizens of London then made *profert* of a writ reciting that the King had granted to them that no battle should be waged against any citizen of the town, and they said that, although the plaintiff had put himself upon the battle, they did not understand, since he is one of the citizens, that the Court would admit him to do so to the prejudice of their franchise.—And thereupon the Court desired to consider.

Receipt. (5.) § By reason of the default of Maud late the wife of W. Casse, the issue of W. and Maud came and showed that the land was given to W. and this Maud his wife, to hold to them and to the heirs of their bodies begotten, and said that W. was dead, and that so the fee and the right had, in accordance with the limitation, descended to him as issue, and prayed to be admitted to defend his right. And, because Maud had a fee by virtue of the limitation, seisin of the land was awarded [to the demandant].

Debt. (6.) § A writ of Debt was brought against the heir of one who bound himself, and exception was taken to the writ on the ground the defendant was

Nos. 5, 6.

Skip. Le tendre de deresne nest qun parole de A.D. 1346. forme, qar en Appel, la ou meynoere¹ est allegge en le defendant, le pleintif tendra deresne, et si le defendant gage la bataille donques avera il a dire qil nest pas resceyvable pur le meynoere¹; auxi en ceo cas, coment² qil tendi, il dirra ore qil nel receyvra pas pur ceo qe il est citezein, *ut supra*.—Le pleintif issit denparler, et puis de gree revint, et rejoynt la bataille.—Ceux de Loundres mistrent avant un brief recitant coment le Roi les avoit graunte qe nul bataille serra gage vers nul citezein de la ville, et disoint qe coment qe le pleintif savoit mys en bataille, puis qil est un de la cite, qils nentendirent pas qe en prejudice de lour fraunchise la Court le voudra resceivre.—Et sur ceo la Court se voleit aviser, &c.

(5.)³ § Par la defaute Maude qe fust la femme W. Casse, lissue entre W. et M. vient et moustre coment la terre fust done a W. et a ceste M. sa femme, a eux et a les heirs de lour corps engendretz, et dit qe W. est mort, et issi est le fee et le dreit par la taille descendu a luy come issue, et pria destre receu. Et, pur ceo qe M. avoit fee par force de taille, seisine de terre fut agarde, &c. Resceite.
[Fitz.,
Resceit,
17.]

(6.)⁴ § Brief de Dette porte vers le heir celui qe Dette. se obligea, et le brief chalenge pur ceo qe il ne fut

¹ H., le meionoepre.

² coment is omitted from I.

³ From H., and I.

⁴ From H., and I. The record seems to be that found among the *Placita de Banco*, Easter, 20 Edw. III., R^o 112. It there appears that an action of Debt was brought by Agnes de Meryton against Laurence

Ballard, of Coventry, and Agnes his wife, in respect of a sum of £120, in which Henry de la Mure, son of Richard de la Mure, of Coventry, uncle of the female defendant, whose heir she was, had bound "se et heredes suos" by obligation to the plaintiff.

No. 7.

A.D. 1346. not described as heir in the writ.—And the exception was not allowed.—Therefore the defendant said, by *Grene*, that he had nothing by descent from his ancestor whose deed, &c., and had nothing on the day on which the writ was purchased, or at any time afterwards; ready, &c.

Annuity. (7.) § A writ of Annuity was brought by Nigel son of Richard de Hakeneye,¹ and he counted that the annuity was granted to him in the thirteenth year of the King the father of the present King, and made *profert* of a deed of which the date was reckoned from the Incarnation.—*Skipwith* demanded

¹ For the name see p. 139, note 2.

No. 7.

nome heir en le brief. — Et nient allowe. — Par A.D. 1346. quei il dit, par *Grene*, qil navoit rienz par descent de par soun auncestre qi fait, &c., ne navoit jour de brief purchace, ne unques puis; prest, &c.¹

(7.)² § Annuyte porte par³ Richard le fitz Neel de Annuite. Hakeneye, et counta qe lannuyte luy fut graunte lan xiiij. le Roi pere le Roi, &c., et mist avant fait qe porta date del Incarnacion.⁴ — *Skip*. demanda

¹ The defendants pleaded, according to the record, "quod ipsa Agnes, ut consanguinea et heres prædicti Henrici, de prædicto debito onerari non debet, quia dicunt quod ipsa Agnes nihil habet per descensum hereditarium de prædicto Henrico ut de feodo simplici, et hoc parati sunt verificare, unde petunt judicium."

The plaintiff rejoined, "quod terræ et tenementa descenderunt præfatæ Agneti uxori prædicti Laurentii, post mortem prædicti Henrici, apud Coventre, in feodo simplici, de quibus ipsa Agnes fuit seisisa die quo ipsa breve suum versus eos impetravit." Upon this issue was joined.

There was a verdict at *Nisi prius*, "quod triginta et octo solidi date redditus, cum pertinentiis, in Coventre descenderunt præfatæ Agneti, uxori prædicti Laurentii infra nominati, de prædicto Henrico de la Muyre, ut consanguinea et heredi prædicti Henrici, in feodo simplici, de quo quidem redditu prædicti Laurentius et Agnes uxor ejus seisisi fuerunt in dominico suo ut de feodo et jure ipsius Agnetis die impetrationis brevis . . . Qæsit ad quæ damna, &c., dicunt quod ad damna xx solidorum."

Judgment was then given for the

plaintiff to recover the £120, and the damages as assessed. Execution by *Elegit* was awarded.

² From H., and I., but corrected by the record, *Placita de Banco*, Easter, 20 Edw. III., R^o 60. It there appears that the action was brought by Nigel son of Richard de Hakeneye against the Abbot of Bardney, in respect of arrears of an annual rent of 100 shillings.

³ I., vers.

⁴ The count or declaration was, according to the record, "quod cum quidam Ricardus quondam Abbas Monasterii de Bardeney, prædecessor prædicti nunc Abbatis, et ejusdem loci Conventus quarto Kalⁿ Maii anno domini millesimo tricentesimo vicesimo, et vicesimo octavo die Aprilis anno regni domini Edwardi nuper Regis patris domini Regis nunc tertiodecimo, apud Bardenay, per scriptum suum concesserunt ipsi Nigello quandam annuam pensionem centum solidorum de Monasterio suo de Bardeney ad duos anni terminos pro æquali portione percipiendam, videlicet, ad Festum Sancti Martini in hyeme quinquaginta solidos, et ad Festum Sancti Botulphi quinquaginta solidos, quousque ipsi Nigello per ipsos Abbatem et Conventum provisum fuisset de

No. 7.

A.D. 1346. judgment of the count, because the date in the deed was a later date than that which was in the count.— And at last the Court recorded that he had counted as to both dates, and adjudged the count to be good.—*Skipwith*. In the specialty his name is given as Nigel son of Richard de Hakeneye¹ *Civis Londoniarum*, and the word *Civis* is omitted from the writ; judgment.—*Sadelyngstanes*. That word *Civis* in the specialty relates to the father, and the father is dead, and therefore we cannot so name him now.—WILLOUGHBY. Even though you were to name him in accordance with the specialty, it would not be a plea to say that he was not a citizen or that he was dead; therefore, since your writ is not in accordance with the specialty, take nothing by the writ, &c.

¹ For the name *sec* p. 141, note 2.

No. 7.

jugement de counte, qar la date en le fait est puisne A.D. 1346.
 date qe nest en le counte.—Et al drein la Court
 [recorda qil avoit counte del un et del autre date,
 et agarda le counte bone.—*Skip.* En lespecialte il
 est nome Richard]¹ le fitz Neel de H. *Civis*
Londoniarum, et le *Civis* est entrelesse en le brief;
 jugement.²—*Sad.* Ceo³ parole *Civis* en lespecialte
 refiert al pere, [et il est mort, par quei nous nel
 poms nomer issi a ore.—*WILBY.* Mesqe vous luy
 nomassez acordaunt al especialte]¹ il ne serra pas
 plee a dire qil ne fut pas citezein, ou qil fut
 mort; [par quei, puisqe vostre brief nest pas acordaunt
 al especialte, ne preignez rienz pas le brief],¹
 &c.⁴

"ecclesiastico beneficio competenti,
 "ita tamen quod idem Nigellus
 "tempore congruo se redderet
 "habilem ad beneficium ecclesias-
 "ticum obtinendum, de quo quidem
 "annuo redditu idem Nigellus fuit
 "seisitus usque jam decem annis
 "elapsis ante diem impetrationis
 "brevis, &c., scilicet, decimum
 "nonum diem Junii anno regni
 "domini Regis nunc Angliæ decimo
 "nono quod prædictus nunc Abbas
 "prædictum annum redditum
 "eidem Nigello subtraxit, et eum
 "ei reddere contradixit, et adhuc
 "contradicit, unde dicit quod
 "deterioratus est et damnum habet
 "ad valentiam centum librarum.
 "Et inde producit sectam, &c. Et
 "profert hic prædictum scriptum
 "sub nomine ipsorum Ricardi
 "nuper Abbatis prædecessoris,
 "&c., et Conventus quod hoc
 "testatur." The deed is set
 out at length. The grant is
 in it described as being to
 "Nigello filio Ricardi de Hakeney
 "Civis Londoniarum." The date

is only "quarto Kalū Maii anno
 "domini millesimo tricentesimo
 "vicesimo."

¹ The words between brackets are
 omitted from I.

² The plea was, according to the
 record, "Abbas, . . . petit auditum
 "tam brevis quam scripti prædicti,
 "quibus auditis, petit iudicium de
 "brevi, eo quod in prædicto scripto
 "prædictus Nigellus nominatur
 "Nigellus filius Ricardi de Hakeney
 "Civis Londoniarum et in brevi,
 "&c., nominatur Nigellus filius
 "Ricardi de Hakeney, et sic dicit
 "quod breve, &c., non concordat
 "scripto, &c., unde petit iudicium
 "de brevi, &c."

³ I., ceste.

⁴ The entry on the roll ends as
 follows:—"Et Nigellus non potest
 "hoc dedicere. Ideo consideratum
 "est quod prædictus Abbas eat inde
 "sine die, et prædictus Nigellus
 "nihil capiat per breve suum, sed
 "sit in misericordia pro falso
 "clameo, &c."

No. 8.

A.D. 1346. (8.) § A writ of Account was brought. And the
Account. plaintiff made *profert* of a deed which proved that the defendant was bound to account.—*Huse*. We tell you that the plaintiff granted by this deed that if we should execute in his favour a recognisance on statute merchant, on such a day, at Canterbury, the letter of account should be held as null, and, if not, that it should stand in force. And *Huse* said that the defendant had performed the covenants, and demanded judgment.—*Skipwith*. As to that we tell you that, by covin between you and the Clerk of the Statute, you executed a statute before the appointed day, which statute the Clerk delivered afterwards, and on the appointed day we came to Canterbury expecting the covenant to be carried out, and you did not come thither; and we do not understand that by any statute executed by covin, and not delivered to us, you can escape from the account.—*Thorpe*. We tell you that on the day mentioned in the indenture we came to Canterbury, and levied the statute, and you were not there on that day, and so we performed the condition mentioned in the indenture; ready, &c.—*Grene*. The condition is:—"If you shall be bound to us by a statute, &c.," by which it is to be understood that we are to be assured in accordance with law as to having the recognisance, and that we cannot be without having delivery of the statute, as to which matter we will aver that you never delivered it, but carried it away with you, and so, according to law, the condition is broken on your part; judgment.—*Thorpe*. We have said that we executed the statute, and that you were not there to receive it, and that was your fault; judgment.—*Grene*. If I have a lease of land from anyone on condition of payment of money on a certain day, and on that day I tender the money to him, and he refuses it, nevertheless, in a subsequent plea, it is necessary to tender the money to

No. 8.

(8.)¹ § Acompte fut porte. Et mist avant fait qe A.D. 1346.
 le prova.—*Huse*. Nous dioms qe le pleintif par ceo fait graunta qe si nous luy feissoms² une reconis-
 sance sur un estatut marchaunt, tiel jour, a Caunterbirs qe la lettre dacompte serreit tenu pur nulle, et si noun qe ele³ estoit en sa force. Et dit qil avoit parfourni les covenantz; jugement.—*Skip*. A ceo vous dioms qe par covyne entre vous et le Clerk del estatut avant le jour limite vous feites⁴ un estatut, quel estatut le Clerk livra apres, et al jour limite nous venymes a C. entendaunt le covenant estre pursuy, et vous ne y venistes pas; et nentendoms pas qe par nul estatut fait par covyne et nient livre a nous⁵ qe vous puissetz del acompte estourtre.—*Thorpe*. Nous dioms qe al jour compris deinz⁶ lendenture nous venimes a C., et levames lestatut, a quel jour vous ne estoiez pas, et issi parfournames la condicion compris deinz⁶ lendenture; prest, &c.—*Grene*. La condicion est qe si vous soietz oblige a nous par lestatut, &c., quel est a entendre qe nous soioms seure par la leye de la reconissance, et ceo ne poms estre saunz livre aver del estatut, quel chose nous voloms averer qe unques ne livrastes, mes emportastes ove luy, et issi par leye la condicion de vostre part enfreint; jugement.—*Thorpe*. Nous avoms dit qe nous feimes⁷ lestatut, et qe vous nestoiez pas illoeqes del recevoir, quel fut vostre defaute; jugement.—*Grene*. Si jeo lesse a vous terre sur paiement de deners a certeyn jour, et al jour jeo luy⁸ tend⁹ les deners, et il refuse, et unqore en plee apres il li¹⁰ covient a tendre de novel;

¹ From H., and I., until otherwise stated.

² H., fesoms.

³ H., qil, instead of qe ele.

⁴ I., feistes.

⁵ The words a nous are omitted from I.

⁶ H., en.

⁷ I., feismes.

⁸ The words jeo luy are omitted from I.

⁹ H., tendi.

¹⁰ li is omitted from H.

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A.D. 1346. him anew ; so also in this case, although you levied the statute, yet, since you did not deliver it, you must be ready to deliver it now.—SHARSHULLE. The indenture purports that if you bind yourself to the plaintiff by a statute as above, the letter of account loses its force ; now you are not bound until he is assured of that binding, and that he is not until he has delivery of the statute, and he has tendered an averment of the reverse ; therefore, &c.—*Thorpe*. We have said and we still say that, on the day mentioned in the indenture, we came and executed the statute, and that he was not there, and that we performed the conditions mentioned in the indenture ; ready, &c. And as to his statement that we levied a statute on that day, and carried it off without delivering it to him, issue cannot be taken on that point, because in the indenture everything depends on the statute being executed on the day mentioned therein, without having regard to the levying of the statute before that day ; therefore, if he will say that we did not levy the statute on the day mentioned in the indenture, well and good ; and, if he will not, let him confess that we did levy it, and we will abide judgment.—*Grene*. And confess on your part that you carried off the statute without delivering it to us, and we will do the like willingly.—SHARSHULLE. That which you have said as to the levying of a statute executed before the appointed day is nothing to the purpose, because it is not warranted by the indenture ; therefore, if you will confess that he levied the statute on that day, but say that, because he did not deliver it to you, he has incurred the penalty, you can well do so, and otherwise you do not plead.—*Grene*. It is not so : for if I execute a statute in his favour before the day, and deliver it to him, so that he has security for the sum in

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auxi issi, coment qe vous le levastes, puis qe vous A.D. 1346.
 ne le¹ baillastes, vous covient estre prest a ore del
 delivrer.—Schs. Lendenture voet qe si vous vous
 obligez al pleintif par estatut *ut supra* qe la lettre
 dacompt perde sa force; ore vous nestes pas oblige
 tanqe il soit seure de icelle lien, et ceo nest il pas
 tanqe il eit la.livre del estatut, et le revers de celle
 ad il tendu daverer; par quei, &c.—*Thorpe*. Nous
 avoms dit, et unqore dioms qe, al jour compris deinz²
 lendenture, nous venismes et feismes lestatut, et il
 ne y estoit pas, et parfournimes les condicions com-
 pris en lendenture; prest, &c. Et a ceo qil dit qe
 nous levames un estatut cel jour, et lemportames
 saunz le livrer a luy, sur cel issue ne poet estre
 pris, qar tut depend³ en lendenture sur lestatut fait
 le jour compris en icele, saunz aver regarde al lever
 del estatut avant cel jour; par quei sil voet dire qe
 nous ne levames pas lestatut al jour compris en
 lendenture, bien soit; et si noun, conisse⁴ qe nous
 le levames, et demuroms en jugement.—*Grene*. Et
 conissez vous qe vous lenportastes saunz nous livrer,
 et nous ferroms volunters.—Schs. Ceo qe vous avetz
 dit del lever dun estatut fait avant le jour, ceo nest
 rienz a purpos, qar ceo nest pas garranti del
 endenture; par quei si vous voilletz⁵ conustre qe a
 cel jour il leva lestatut, mes par taunt qil nel vous
 livra qil est encoru la peine, vous poiez bien, et
 autrement vous ne pledez pas.—*Grene*. Il nest pas
 issi: qar si jeo luy face un estatut avant le jour,
 et luy baille cele, issi qe il est sure de la somme

¹ le is omitted from I.² H., en.³ H., depent.⁴ I., conissetz.⁵ H., volez.

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A.D. 1346. respect of which I was to have executed a recognisance in his favour afterwards, I act to his advantage, and do not do anything contrary to the condition.—*Skipwith, ad idem.* We have assigned a default in him in that he carried off the statute without delivering it to us either then or at any time since, and we understand that non-delivery to have the effect of breaking the condition on his part; and, because we have surmised that, and he does not deny it, we demand judgment.—*Thorpe.* We tell you that we levied the statute on the day, &c., as above, and delivered it to the Clerk of the Recognisance to deliver to you; ready, &c.—*Skipwith.* That is not a plea, without saying that you did not carry it off: for if you took it away from the Clerk before we had it in hand, still the condition is broken on your part; therefore, &c. And since we have tendered the averment that the statute was never delivered to us, before which delivery you were not bound, and you do not now offer to deliver it to us, we therefore demand judgment.—*Stonore* therefore gave judgment against the defendant, to the effect that he must account.

Account. § A writ of Account was brought against A., on the ground of an obligation, and he made use of a collateral indenture, which purported that if the defendant should come, on a certain day, in a certain year, and at a certain place, and should acknowledge and execute an obligation by statute merchant to the plaintiff in respect of a certain sum, the obligation to account should then lose its force. And the defendant said that he came on the day, and executed the statute, and that the plaintiff did not come on that day, and the defendant demanded judgment inasmuch as he had performed the condition.—*Grene.* We tell you that by covin between him and the Clerk of the Statute he came before the day, and executed such

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qe jeo luy duisse luy aver reconu¹ apres, jeo luy A.D. 1346.
face avantage, et ne face pas en offens de la condicion.
—*Skip.*, *ad idem*. Nous avoms assigne defaute en luy
par tant qil emporta lestatut saunz le liverer a nous
adonques ou unques puis, quel noun livrer nous
entendoms qe soit cause denfreindre la condicion de
sa part; et de ceo qe nous lavoms surmys, et il nel
dedit pas, nous demandoms jugement.—*Thorpe*. Nous
vous dioms qe nous levames lestatut al jour, &c.,
ut supra, et le livrames al Clerk de la reconissance
a vous livrer; prest, &c.—*Skip*. Ceo nest pas plee
saunz dire qe vous nel emportastes pas: qar si
vous² tollistes del Clerk devant qe lussoms en mayn,
unqore est la condicion enfreint de vostre part; par
quei, &c. Et depuis qe nous avoms tendu daverer
qe unques lestatut ne nous fut livre, avant quel vous
nestes pas oblige, ne vous nel tendez pas a ore de
nous livrer, par quei nous demandoms jugement,
&c.—Par quei Stou. luy ajuggéa dacompter, &c.

§ Acompte³ vers A. par obligacioun, qe usa Acompte.
endenture de cost, qe voleit qe si le defendant
venist, certain jour, an, et lieu, et se conissast et
feist une obligacioun par statut marchaunt al pleintif
de certain somme qe lobligacioun dacompter⁴ perdrent
sa force. Et dit qil vint al jour et feist lestatut, a
quel temps le pleintif ne vint pas, et demanda
jugement, desicomme il ad parfourny la condicion.—
Grene. Nous vous dioms qe par covyn entre luy et
le clerke del estatut il vint devant le jour, et fist un

¹ I., conu.

² vous is omitted from I.

³ This report of the case is from
L., and C.

⁴ C., del accompte.

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A.D. 1346. a statute, and delivered it to the Clerk to keep, *absque hoc* that he delivered any statute to us; ready, &c.—*Thorpe*. We came on the appointed day, and executed the statute, and that which the indenture purported, that is to say, that we should come; ready, &c.—*Grene*. Even though you did come and did execute a statute, you did not deliver any to us, and still do not do so, and so you are still not charged, because without the obligation by statute we shall never have an action.—*Thorpe*. Since you did not come, and we did come and did execute the statute, there is nothing else that we could have done.—*Grene*. Yes, there is something that you ought to have done; you ought to have taken the statute and tendered it to us.—*Thorpe*. When we have executed the statute, and you possibly leave it in the Clerk's possession because you are unwilling to pay his fee, whose fault is that?—*Grene*. You, who have to execute the statute in my favour, will pay his fee if you please, and will deliver the statute to me, and otherwise you have not, according to law, performed the condition.—*Thorpe*. You surmise against me that I executed a statute by covin on another day, and even though I had executed ten statutes on another day, and had delivered them to you, I should never have been any the more discharged, because the covenant cannot be performed by the execution of any statute except on the same day; therefore you must either admit, as I say, that I executed the statute on the appointed day, or you must abide judgment on the ground that it was not delivered to you, or else you must take a traverse on the execution of the statute on the same day.—WILLOUGHBY said that, even though he executed the statute before the day, the condition would thereby be fulfilled, and SHARSHULLE said the contrary.—*Grene*. I am not concerned to deny that you executed the statute;

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tiel estatut, et le bailla al clerke a garder, sanz ceo A.D. 1346. qil nous livera nulle estatut; prest, &c.—*Thorpe*. Nous venimes al jour assis, et feimes lestatut, et ceo qe lendenture voleit, qe nous ne venimes; prest, &c.—*Grene*. Tut venistes vous et feistes lestatut, vous nous liverastes¹ nulle, ne unqore ne fetes, vous estes unqore descharge, qar sanz lobligacioun par² estatut nous averoms jammes accion.—*Thorpe*. Quant vous ne venistes pas, et nous venimes et feimes lestatut, nous ne poames³ autre chose aver fait.—*Grene*. Si duissetz; vous le duissetz aver pris et nous aver tendu lestatut.—*Thorpe*. Quant nous lavoms fait, et vous par cas le lessetz vers le clerke pur ceo qe ne volletz⁴ paier soun fee, qi default est cella?—*Grene*. Vous qe moy ferretz lestatut vous⁵ paieretz si vous voilletz, et le moi liveretz, et autrement par lei navetz pas parfourny la condicion.—*Thorpe*. Vous moi surmettez qe par covyn jeo fesoï un estatut a autre jour, et mesqe jeo usse fait x. estatuts a autre jour, et⁶ vous le usse⁷ livere, jammes ne serroy⁸ jeo le plus par taunt descharge, qar par fesaunce de nulle estatut purra le covenant estreourny forqe a mesme le jour; par qai ou covient il qe vous grauntetz ovesqe moi qe jeo fesoï lestatut al jour assis, ou⁹ demuretz en jugement pur ceo qil ne fuit pas livere a vous, ou autrement qe vous pernetz travers sur la fesaunce del estatut a mesme le jour.—*WILBY*. dit, mesqil feist lestatut avant le jour, qe la condicion serreitourny, et *SCHAR. contrarium*.—*Grene*. Jeo ne su pas a dedire qe vous feistes lestatut;

¹ L., baillastes.² par is omitted from C.³ C., poms⁴ C., voilletz.⁵ vous is omitted from C.⁶ et is omitted from C.⁷ MSS., assetz.⁸ L., serra.⁹ C., et.

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A.D. 1346. but because you did not deliver any statute to me, nor did any other person on your behalf, and you still do not tender any statute, I demand judgment, and pray the account.—*Thorpe*. And, inasmuch as you do not deny that I came on the appointed day and executed the statute, and so did all that in me lay, and you did not come on the day, and we tell you that we delivered the statute to the Clerk to deliver to the plaintiff when he should come, therefore I demand judgment.—*SHARSHULLE*. Even though you did entrust it to another to deliver to him, and that other did nothing of the kind, it does not follow that you are discharged from the first penalty.—*STONORE*. Because the condition is that you are to execute a statute in his favour, upon which, by intendment of law, he would have an action, and that action he could not have if the statute were not delivered to him by you, or else on your behalf, the COURT giveth judgment that you do proceed to account.

Franchise
(Cognis-
ance of
pleas).

(9.) § The Mayor and Bailiffs of the town of Coventry demanded cognisance of a plea, to wit, of a writ of Entry *sur disseisin*. And they showed how the King had granted to the Queen, his mother, cognisance of all manner of pleas within the Hundred of L.,¹ within which Hundred the town of Coventry is, and showed also another charter to the effect that the Queen's tenants could elect a Mayor and Bailiffs, from year to year, from among themselves, and stated that, by license from the King, the Queen granted

¹ The manor of Cheylesmore, according to the record of Trinity Term.

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mes de ceo qe vous moi liverastes nulle estatut, ne ^{A.D. 1346.} nulle autre de par vous, ne unqore nulle ne tendetz, jeo demande jugement et prie lacompte.—*Thorpe*. Et desicome vous ne deditetz pas qe jeo¹ ne vink al jour assis et fesoï lestatut, et issint fesoï ceo qen moi fuit, et vous ne venistes pas al jour, et nous vous dioms qe nous liverames² lestatut al clerke pur liverer a luy quant il vendreit, par qai jugement.—*SCHAB*. Mesqe vous baillastes a autre a liverer a luy qe rien fist de ceo, nensuyt il pas qe vous soietz descharge de la primere peyne.—*STON*. Pur ceo qe la condicion est qe vous luy ferretz un estatut, par quel par entent de lei il avereit accion, et ceo ne purreit il aver sil ne fuit livere a luy par vous, ou autrement de par vous, et la livere fait a luy ne meintenetz pas, si agarde la COURT qe vous ailletz³ dacompter.⁴

(9.)⁵ § Le Meire et les bailiffs de la ville⁶ de ^{Fraun-}Coventre demanderent conisance dun plee, saver, ^{chise.} dun brief Dentre sur disseisine. Et moustrenterent coment le Roi avoit graunte a la Roigne, sa meere, conissaunce de touz maneres des plees deinz⁷ Lundrede⁸ de L., deinz quel hundred la ville de Coventre est, et auxi une autre chartre qe les tenantz la Roigne puissent eslire⁹ Meire et bailiffs, dan en an, de eux¹⁰ mesmes, et disoint coment, par conge

¹ jeo is omitted from C.

² C., baillames.

³ L., alletz.

⁴ C., de accompter.

⁵ From H., and I., until otherwise stated. There is among the *Placita de Banco* of Trinity Term, 20 Edw. III., a record (R^o 325) of a case in which cognisance was prayed by the Mayor and Bailiffs of Coventry. A writ of Entry *dum fuit infra etatem* was brought by Henry son of Reginald Ballard of Coventry

against John Box of Coventry, in respect of a messuage in Coventry. Upon John's appearance in the Common Bench, the Mayor and Bailiffs of Coventry intervened and made their prayer.

⁶ The words de la ville are omitted from H.

⁷ I., dedeinz.

⁸ I., le hundred.

⁹ I., elire.

¹⁰ H., eaux.

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A.D. 1846. the same franchises to them, and that the King himself granted and confirmed them, and they made *profert* of all the charters.—*Gaynesford* said that the Prior of Coventry was lord of a moiety of the town by gift from Saint Edward, and that gift had been confirmed by the present King. And he made *profert* of a deed, and also made *profert* of a transcript of a fine by which his predecessor purchased the other moiety. And he said that the Prior had view of frank pledge throughout the whole town from time whereof there is no memory, and had alleged it in proceedings on *Quo warranto* in an Eyre, and that therefore the grant which the King had made to those who were his (the Prior's) tenants could not enure to the loss of his franchise, so that he should not have the cognisance which belonged to him.—*Skipwith*. You shall not be heard to speak for the Prior now, since there is no one who can be a party to stop this except the King, and with regard to him we show sufficient cause why he has no ground to refuse it.—*HILLARY*. It would be hard law, if I have a Hundred to which all my tenants owe suit, and ought to have cognisance of all manner of contracts made within the precinct of the Hundred, that I should lose it by reason of the King's grant.—*Derworthy*. The King can grant to another whatsoever cognisance he ought himself to have in his own court; now this action could not be pleaded anywhere else but in this Court before the King's grant; therefore he can grant the cognisance of it to me since it will not belong to any other person; but if it were a writ of Right, in which case the person of whom the land is holden would have his court, it would be right that we should not have the franchise since the King himself would not have it; and moreover those who are parties to the original cannot counterplead it, nor can the King counterplead it because

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le Roi, la Roigne graunta mesmes les fraunchises a A.D. 1346. eux,¹ et le Roi mesme le graunta et conferma, et moustrerent avant touz les chartres.—*Gayn.* dit qe le Priour de Coventre est seignur de la moyte de la ville de doun Seynt Edward, quel doun est conferme par le Roi qore est. Et le mist avant fait, et auxi mist avant transescript dune fyn par quel soun predecessour purchacea lautre moyte. Et dit qil avoit vewe de frauncplegge par tut la ville de temps douut memore, &c., et par *Quo waranto* allegge en Eyere, et issi le graunt qe le Roi ad fait a ceux qe sount ces tenantz ne poet oepre en perde de sa fraunchise par quei il ne dust sa conissaunce avoir.—*Skip.* Vous ne serretz pas oy a parler pur le Priour a ore, puis qil ny ad nulle qe poet estre partie del arester forqe le Roi, et a luy moustroms assetz pur quei il nad pas cause del countredire.—*HILL.* Il serreit fort ley si jeo eye un hundrede a quel toux mes tenantz deivent sute, et deye aver conissaunce de touz maneres de contractes faites deinz la pursente, qe par graunt le Roi jeo perdray.—*Der.* Quantqe le Roi dust aver conissaunce mesme en sa Court poet il graunter [a autre; ore cest accion ne puist estre plede aillours qe cyeinz avant graunt le Roi; *ergo* de cele il moy purra graunter]² la conissaunce puis qe ceo nattendra a nulle autre persone; mes si ceo fut un brief de Dreit, en quel cas luy de qi la terre est tenu averoit sa Court, il serra resoun qe nous nussoms pas la fraunchise, puis qe le Roi mesme nel³ averoit pas; et auxi ceux qe sount parties al original nel countrepledront pas, ne le Roi nel poet countrepleder puis qil nous ad

¹ H., eaux.² The words between brackets are omitted from H.³ The words mesme nel are omitted from I.

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A.D. 1346. he has himself granted it to us; and if we commit any tort against the Prior by the user of the franchise, he will be able to make plaint, and put the matter to trial as between party and party; therefore he cannot now be listened to when he intervenes in this manner.—*Mutlow* said that in the time of the present King, in the eighteenth year of his reign, a garnishment was sued against the men of Coventry by the commonalty of the county of Warwick, because they claimed to have cognisance of pleas of another person's tenants, and that by grant from the King, as well as of the King's tenants, which grant was made to the damage of the whole of the commonalty, and also to the damage of the King, because the King was not apprised of the damage to him inasmuch as no writ of *Ad quod damnum* was sued, and for that reason the charter was revoked so far as that point was concerned. And *Mutlow* made *profert* of the record. And he demanded judgment, for that reason, whether they ought to have the cognisance.—*Blaykeston*. As to that we tell you that the person against whom the writ is brought is the Queen's tenant within the Hundred, and, even though the charter be revoked in one point, it remains in force in the other point, that is to say, to have cognisance with regard to the Queen's tenants; therefore, &c.—*Pole*. Still you must show that the Mayor and the Bailiffs who claim the cognisance are the Queen's tenants also, because no others can be Mayor or Bailiffs, and we say that they are our tenants, and not the Queen's tenants; ready, &c.—*Moubray*. If the Court can allow the issue, we will aver that the tenant, and the Mayor, and the Bailiffs are the Queen's tenants within the Hundred.—And afterwards the demandant in the original writ was nonsuited.—*Moubray*. And so the whole is quashed.

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graunte mesme; et si nous fesoms tort al Priour A.D. 1346. par le user de la fraunchise, il se purra pleindre, et mettre la chose en triement come partie a partie¹; par quei a ore en la manere qil vient il ne poet estre² escote.—*Mutl.* dit qen temps³ le Roi qore est lan xviii. un garnissement fut suy vers ceux de Coventre par le comune del countee de Warrewyke, de ceo qils clamerount daver conissaunce de plee dautri tenantz, et ceo par graunt le Roi, auxi bien come de⁴ tenantz de Roi, quel grant fut fait en damage de tut⁵ la cominalte⁶ et auxi del Roi, puis qe le Roi ne fut⁷ pas apris de soun damage par taunt qe le *Ad quod damnum* nestoit pas suy, par cele cause la chartre en cele point fut repelle. Et mist avant le recorde. Et demanda jugement si par cele cause duist il la conissaunce aver.—*Blaik.* A ceo vous dioms qe celui vers qi le brief est porte est tenant la Roigne deinz Lundrede,⁸ et mesqe la chartre soit repelle en lun point il demoert en sa force en lautre point, saver, daver conissaunce de les tenantz la Roigne; par quei, &c.—*Pole.* Unqore il vous covient moustrer qe le Maire et les baillifs qe chalangent la conissaunce soient tenantz la Roigne auxi, qar autres ne pount estre Maire ne baillifs, et nous dioms qils sount noz tenantz, et ne mye les tenantz la Roigne; prest, &c.—*Moubray.* Si Court poet souffrir lissue, nous voloms averer qe le tenant et le Maire et les baillifs sount tenantz la Roigne deinz le Hundred.—Et puis le demandant en loriginal fuit nounsuy.—*Moubray.* Et issi tut quasse.

¹ The words a partie are omitted from I.

² estre is omitted from I.

³ I., tens.

⁴ de is omitted from I.

⁵ I., tote.

⁶ H., counte.

⁷ I., nest, instead of ne fut.

⁸ I., le hundred.

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A.D. 1346. § A writ of Entry was brought in respect of
Entry. tenements in Coventry. The Mayor and Bailiffs of the town prayed cognisance, and alleged that the King had granted to Isabella, Queen of England, cognisance of all pleas of all her tenants within the view within her manor of Cheylesmore, in which manor Coventry is, and that afterwards the King gave license to the same Queen that she might grant cognisance of pleas, &c., to her tenants within the same view in the manor of Cheylesmore in the town of Coventry. They showed also that there was to be a commonalty in that town—Mayor and Bailiffs from among the Queen's tenants. And they showed also how the Queen had granted to them cognisance of pleas. And thereupon they had a writ. The Prior of Coventry intervened, by attorney admitted in Chancery by writ, to take exception, and he opposed the allowance of the franchise, and said by parol that this franchise was not allowable, because the King cannot, by common right, grant a franchise, except to his own tenants, and so there are no Mayor and Bailiffs, and that consequently no one can claim this franchise for Mayor and Bailiffs, since they make themselves out to be tenants of Queen Isabella, in whom such a franchise of having Mayor and Bailiffs ought not to vest.—*Skipwith.* The Prior is not a party and cannot be a party to the plea or to question the franchise; and, even though he could be, still it is not law, as he says, that the King cannot grant a franchise to the tenants of other persons, that is to say, the franchise of having a Mayor and Bailiffs, and cognisance of pleas, for he can grant to another cognisance of that of which he ought himself to have cognisance in his own Court, and if the grant were to the damage of another person, so that it were revocable, the proper course would be to have the King's charter revoked on suit made for that purpose,

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§ Entre¹ porte des tenementz en Coventre. Le A.D. 1346.
 Meire et baillifs de la ville prierunt la conissaunce, ^{Entre.}
 et alleggerunt qe le Roi avoit grante a Isabelle
 Reigne Dengleterre conissaunce des toux plees de
 toux ses tenantz deinz la vewe deinz son maner de
 C.² deinz quel maner Coventre est, et puis le Roi
 dona conge a mesme la Reigne qele purreit graunter
 conissaunce des plees, &c., a ses tenantz deinz mesme
 la vewe el maner de C. en la ville de Coventre.
 Et moustrenterent auxint qil y avereit Comune en cele
 ville, Meire et baillifs des tenantz la Reigne. Et
 auxint moustrenterent coment la Reigne ad grante a
 eux conissaunce, &c. Et sur ceo avoint ils brief.
 Le Prior de Coventre³ vint par attourne resceu⁴ en
 la Chauncellerie par brief, pur chalenge, et destourba
 lalowaunce de la fraunchise, et dit par parole qe
 cele fraunchise nest pas allowable, qar le Roi de
 comune dreit ne poet graunter fraunchise forqe a
 ses tenantz demene, et issint ny ad il pas Meire et
 baillifs, *nec per consequens* nulle homme poet cele
 fraunchise clamer pur Meire et baillifs, qar ils se
 fount tenantz la Reigne Isabelle, en queux tiel
 fraunchise daver Meire et baillifs ne duist vestire.—
Skip. Le Prior nest partie, ne ne⁵ poet estre, al
 plee ne a la fraunchise; et, tut poait il, unqore ceo
 nest pas ley qil parle qe le Roi ne poet pas graunter
 fraunchise a autres tenantz, saver, daver Meire et
 baillifs, et conisaunce des plees, qar ceo dount il
 mesme duist aver conissaunce en sa Court il le poet
 graunter a autre, et sil fuit en damage dautre, issint
 qe la chose fuit repellable, il coviendreit par suite
 repeller la chartre le Roi, mes, esteaunt le grant

¹ This report of the case is from
 L., and C.

² C., G.

³ The words *de Coventre* are
 omitted from L.

⁴ *resceu* is omitted from L.

⁵ The second *ne* is omitted from
 L.

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A.D. 1846. but while the King's grant is in force, it must be admitted that the franchise is to be allowed.—*Pole* made *profert* of a record *sub pede sigilla*, which proved that heretofore the King's charter by which divers franchises were granted to the people of Coventry (to wit, that they should decide their causes not by means of persons foreign to the town, but entirely by themselves, and another franchise also) was revoked by the King's Council, because the King cannot grant a franchise to the tenants of another person. And *Pole* said further that the Prior of Coventry is Queen Isabella's tenant of the whole of the town of Coventry, one moiety in demesne, and the other moiety in service, and he showed in what manner, by fines and by prescription. And he said that those who make themselves out to be Mayors and Bailiffs, and who are parties to this plea, are all the Prior's tenants and not the Queen's tenants. And since they did not show that they ought to have such a franchise except on the ground that they were supposed to be the Queen's tenants, and they were not the Queen's tenants, he demanded judgment whether they ought to have the franchise.—*WILLOUGHBY*. As to the record of the revocation of the King's charter, we have nothing to do with it, because it relates to a different franchise, but it is one proof that the King ought not to grant a franchise to any but his own tenants.—But *SHARSHULLE* said :—You claim this franchise as tenants of our Lady, the Queen, and he surmises against you that you are the Prior's tenants, and not the Queen's tenants. What do you answer to that? Will you accept the averment or not?—And *Skipwith* did not dare to do so, but caused the demandant to be non-suited,

No. 9.

le Roi en sa force, il covient qil conust qe ceo A.D. 1346. soit allowe.—*Pole* mist avant rēcorde *sub pede sigilli*, qe prova qautrefoith par le Counseille le Roi la chartre le Roi par quele fuit grante as gentz de Coventre divers fraunchises, saver, qils passerent¹ pas par foreins mes tut par eux mesmes, et autre fraunchise auxint fuit repelle, pur ceo qe le Roi ne poait graunter fraunchise a autri tenantz. Et dit outre qe le Prior de Coventre est tenant de tote la ville de Coventre, la moite en demene, la moite en service, de la Reigne Isabelle, et moustra coment par fines et par prescipcions. Et dit qe ces qe se fount Meire et baillifs, et qe sont parties a ceo ple trestouz sont ses tenantz et noun par les tenauntz la Reigne, et del houre qils ne moustrent pas qils duissent aver tiel fraunchise forge par cause qils duissent estre les tenauntz la Reigne, et ceo ne sont ils pas, jugement si la fraunchise deivent aver.—*WILBY*. Quant al recorde de repeller la chartre le Roi nous navoms qe faire, qar ceo fut dautre fraunchise, mes un prove est ceo qe le Roi ne devereit pas graunter fraunchise forge a ses tenantz demene.—*MES SCHAR*.² Vous clametz ceste fraunchise com tenantz ma dame, &c., et il vous surmette qe vous estes ses tenantz et noun pas tenantz la Reigne. Qai³ responez a ceo? Voilletz laverement ou noun? —Et *Skip*. nosa, mes fist le demandant estre nounsuy.⁴

¹ C., passerunt.

² L., and C., *Skyp*. But the following words are those of a judge and not of counsel.

³ C., par quei.

⁴ See Y.B., Trin., 20 Edw. III. No. 59.

Nos. 10, 11.

A.D. 1346. (10.) § A writ of Escheat was brought. The words
 Escheat. in the writ were "*feloniam fecit pro qua abjuravit regnum.*"—Exception was taken to the writ by the tenant by his warranty on the ground that it did not determine what realm the felon abjured—whether France or England.—*Grene.* Although the King's style is changed in the writ, the old form of the writ will not be changed.—*Thorpe.* Yes, it will be, because in a writ of Waste the words will be "*Cum de communi concilio regni nostri Angliæ, &c.*" For the same reason this writ ought to change the old course, like the other.—And in the end the writ was adjudged to be good.—*Thorpe* prayed that his exception might be entered.—And so it was.—*Thorpe.* Again judgment of the writ, for the demand in the writ is "*triginta et unam acram,*" whereas it ought to be *acras*, and also the words are "*feloniam commisit pro qua abjuravit, &c.,*" whereas they ought to be "*feloniam fecit.*"—And, notwithstanding this, the writ was adjudged to be good.

Fine. (11.) § Two men granted two parts of the tenements
 • comprised, &c., which one A. held for a term of ten years (whereas there was only one year of the term yet to come), to another in fee tail, and granted the reversion of the third part, which A. held in dower to the same person, and the fine was admitted.

Fine. § Fine *sur grant* of a reversion after the expiration of a term of nine years. And on the day of the note of the fine eight years had passed, so that there was only one year of the term to come. And there was touched by some one the point that according to the conusance now made the term will extend nine years from the present time. And it was said that in such a case the words of the fine ought to be "which one A. holds for a term of nine years, whereof eight years are passed, and which after the expiration of the term are to revert." And the fine was admitted in that form.

Nos. 10, 11.

(10.)¹ § Brief Deschet porte. Le brief voleit ^{A.D. 1346.} *feloniam fecit pro qua abjuravit regnum.*—Le brief ^{Eschete.} chalange par le tenant par sa garrantie pur ceo ^{[Fitz.,} que ^{Briefe,} il ne determina pas quel realme il abjura, ou ^{251.]} Fraunce ou Engleterre.—*Grene.* Coment *qe* lestile² de brief soit chaunge, launciene forme de brief ne serra mye chaunge.—*Thorpe.* Il serra, qar en brief de Wast le brief dirra *Cum de communi concilio regni nostri Angliæ, &c.* Par mesme la resoun deit cel brief chaunger launciene cours come lautre.—Et a drein le brief fut agarde bon.—*Thorpe* pria *qe* soun chalange fut entre.—*Et ita fuit.*—*Thorpe.* Unqore jugement de brief, qar la demande en le brief est *triginta et unam acram*, la ou il serreit *acras*, et auxi *feloniam commisit pro qua abjuravit, &c.*, la ou il serreit *feloniam fecit.*—Et, *non obstante* ceo cy, le brief fut agarde bon.

(11.)¹ § Deux hommes graunterent les ij parties *Finis.* de tenementz contenuz, &c., queux un A. tient a terme de diez aunz, la ou il navoit a venir mes un an, a un autre en fee taille, et graunterent la reversion de la terce partie *qe* A. tient en dowere a mesme la persone, et resceu.

§ *Finis*³ sur grant de reversion apres le terme de *Finis.* ix aunz. Et jour de la note viij aunz sount passetz, issint qil ny ad forqun⁴ an del terme a venir. Et par asqun fuit touche *qe* par la conisaunce a ore *qe* le terme tendra de cy ix aunz. Et fuit parle *qe* la fine serreit en tiel cas queux un A. tient a terme de ix aunz, dount les viij aunz sount passetz, et quel apres le terme, &c. Et par cel manere fuit resceu.

¹ From H., and I., until otherwise stated.

³ I., lestiele.

² This report of the case is from L., and C.

⁴ C., qun.

No. 12.

A.D. 1346. (12.) § The King brought a *Quare non admisit* against the Archbishop of York, and counted that he had recovered the presentation against one A.,¹ and commanded the defendant to admit one J.,² his clerk; the defendant tortiously refused to admit him, &c.—*Pole*. Judgment of the count: for they have not specified on what kind of original writ he recovered, nor upon what title, so that we could have any definite answer to it.—And this exception was not allowed.—*Pole*. Again, judgment of the writ: for we say that the King has a *Quare impedit* in respect of the same church pending against us, by which suit the right to the patronage will be decided: and we do not understand that, before that suit is determined, you will put us to answer.—WILLOUGHBY. To the *Quare impedit* which the King brings against you it will peradventure be a plea to say that he has a *Quare non admisit* pending against you, but not *e converso*: for you will not, by reason of his suing a *Quare impedit*, be excused for not having admitted the presentee after the matter had been adjudged in his favour.—*Pole*. It is a good answer in a *Quare non admisit* to say that there is a dispute set on foot by a *Quare impedit* between the parties, and that so the church is litigious, and that therefore the defendant is not compelled to admit the presentee of any one until that dispute is ended; and since the King has a *Quare impedit* pending against the Archbishop, and on that account the church is litigious, therefore the King ought not to be answered until that plea is determined.—And, notwithstanding this, HILLARY and WILLOUGHBY put him to

¹ For the full name, see p. 163, note 1.

² For the full name, see p. 163, note 2.

No. 12.

(12)¹ § Le Roi porta *Quare non admisit* vers A.D. 1346. Lercevesqe de E., et counta qil avoit recoveri le presentement vers un A., et maunda al defendant de resceivre un J., soun clerk; il receivre ne voleit, al tort, &c.²—*Pole*. Jugement de counte: qar ils nount pas determine sur quel original il recoveri, ne sur quel title, a quei nous purroms aver certain respons.—*Et non allocatur*.—*Pole*. Unqore, jugement de brief: qar nous dioms qe le Roi ad un *Quare impedit* de mesme leglise pendant vers nous, par quel sute le dreit de patronage serra discus; et nentendoms pas qe, avant cele sute termine, vous nous voillezt mettre a respondre.—*WILBY*. Al *Quare impedit* qe le Roi porte vers vous par aventure il serra plee a dire qil ad un *Quare non admisit* pendaunt vers vous, mes ne mye *e converso*: qar de ceo qe vous navetz pas rescieu le presente apres qe la chose luy fut ajuge vous ne serretz escuse par sa sute dun *Quare impedit*.—*Pole*. Il est bon respons en *Quare non admisit* a dire qil y ad debat mys par *Quare impedit* entre parties, et issint leglise litigieuse, par quei avant qe cel debat fut termine il nest pas arce de resceivre ascuny presente; et puis qe le Roi ad un *Quare impedit* devers luy pendant, et par taunt litigieuse, par quei tanqe cel plee soit termine il ne deit estre respondu.—Et, *non obstante* ceo, *HILLARY* et *WILBY* lui mistrent

¹ From H., and I., until otherwise stated, but corrected by the record, *Placita de Banco*, Easter, 20 Edw. III., R^o 141. It there appears that the action was brought by the King against William, Archbishop of York, after he had recovered "præsentationem suam ad "Archidiaconatum de Estrithinge "in ecclesia beati Petri Eboraci "versus Adomarum Roberti per "defaltam ipsius Adomari."

² The declaration was, according to the record, that the King had recovered, as above, and that the Archbishop "Johannem le Cestre, "clericum Regis, ad Archidiaconatum prædictum per Regem præsentatum admittere, &c., "recusavit, in Regis contemptum "ac grave damnum, et præjudicium, &c., manifestum."

No. 12.

A.D. 1346. answer.—Therefore he said, by *Richemunde*, that A.,¹ against whom the King alleged the recovery by *Quare impedit*, never had anything in the patronage, but was Archdeacon of the same Archdeaconry at that same time by collation of the Archbishop's predecessor, and is so this day. And we tell you, said *Richemunde*, that we and our predecessors have been seised of the patronage from all time, *absque hoc* that the King or any of his progenitors ever had anything in the patronage as of their own right; and we do not understand that, without alleging that the title in his *Quare impedit* was other than in his own right, the King will, in this case, charge us with contempt.—*Thorpe*. You see plainly that in his answer there are divers peremptory pleas, that is to say, one inasmuch as he has said that neither the King nor any of the King's progenitors ever had anything in the patronage, another inasmuch as he has affirmed the patronage to have been and to be in himself and his predecessors from all

¹ For the full name, see p. 163, note 1, and p. 165, note 1.

No. 12.

a respondre.—Par quei il dit, par *Rich.*, qe A., vers A.D. 1346. qì le Roi alleggea le recoverir par le *Quare impedit*, navoit unqes rienz en lavowere, mes fut Ercedekne de mesme lercedekenerie a mesme le temps de la collacion son predecessour, et huy ceo jour est. Et vous dioms qe nous et noz predecessours avoms este seisi del avowere de tut temps, saunz ceo qe le Roi ou asqun de ses progenitours unqes avoient rienz en lavowere come de lour propre dreit; et nentendoms pas qe saunz allegger qe le tìtle en son *Quare impedit* fut autre qe en son dreit propre gen cel cas il nous voille de contempte charger.¹—*Thorpe*. Vous veiez bien coment en soun respons sount divers peremptores, saver, de ceo qe il ad dit qe le Roy ne nul de ses progenitours unqes avoient rienz en lavowere, un autre de ceo qil ad afferme en li et en ses predecessours lavowere de tot temps,

¹ The plea was, according to the record, "Dicit quod dominus Rex
"tulit breve suum de *Quare*
"impedit versus ipsum Archiepis-
"copum de eodem Archidiaconatu,
"in quo brevi nullus titulus
"inseritur, nec in brevi super quo
"idem dominus Rex recuperavit
"præsentationem suam versus
"prædictum Adomarum de Archi-
"diaconatu illo aliquis titulus in-
"serebatur per quod de communi
"intellectu debet intelligi ut de jure
"suo proprio. Et dicit quod ipse
"Archiepiscopus et omnes præ-
"decessores sui Archiepiscopi
"seisiti fuerunt de advocacione
"ejusdem Archidiaconatus, de
"tempore quo non extat memoria,
"ut de jure ecclesiæ suæ beati Petri
"Eboraci, absque hoc quod
"dominus Rex seu aliquis progeni-
"torum suorum aliquid habuerunt
"in eadem advocacione ut de jure
"suo proprio nisi fuerit tempore

"vacationis ejusdem Archiepisco-
"patus quod temporalia ejusdem
"Archiepiscopatus in manum
"domini Regis extiterunt ut de
"jure Archiepiscopatus prædicti, et
"dicit quod nec prædictus Adoma-
"rus nec aliquis prædecessorum
"suorum seu antecessorum suorum
"unquam aliquid habuerunt in
"advocatione prædicta nisi tantum
"quod prædictus Adomarus fuit
"Archidiaconus Archidiaconatus
"prædicti tempore suo de patron-
"atu ejusdem Archiepiscopi, et diu
"ante impetrationem brevium præ-
"dictorum, et adhuc est, versus
"quem nullum breve de *Quare*
"impedit, ut intelligit, de jure jacet,
"unde petit judicium si dominus
"Rex per aliquod recuperare super
"tali breve versus prædictum
"Adomarum, qui nihil habet in
"advocatione prædicta, injuriam
"seu contemptum in persona sua
"assignare velit, &c."

No. 12.

A.D. 1846. time, and that consequently no contempt can be affirmed in him and in his predecessors; and we demand judgment for the King whether we have any need to reply to this answer which is thus double; and we pray that you be held guilty of contempt.—*Pole.* One plea is consequent upon the other: for, if we and our predecessors have held the advowson from all time, therefore neither the King nor any of his progenitors ever had it, and so our issue is all one, and we demand judgment whether, &c.—And upon that they were adjourned, &c.

No. 12.

et, *per consequens*, nulle contempte poet estre afferme A.D. 1346.
 en lui et en ses predecessours ; et demandoms
 jugement pur le Roi si a cest respons qest si
 double eyoms mester a respondre ; et prioms qe
 vous soietz atteint de contempte.¹—*Pole*. Lun
 ensuyt del autre : qar si nous et noz predecessours
 avoms tenuz lavoweson de tut temps, *ergo* le Roi
 ne nul de ses progenitours unques nel avoient, et
 issi nostre issu un, et demandoms jugement si, &c.—
 Et sur ceo sount ajournez, &c.²

¹ The replication on behalf of the King was, according to the record,
 "quod, cum idem Archiepiscopus
 "respondendo superius allegaverit
 "quod in brevi domini Regis de
 "Quare impedit de eodem Archi-
 "diaconatu nullus titulus inseritur,
 "nec in brevi illo super quo idem
 "dominus Rex præsentationem
 "suam recuperavit ad Archidiacon-
 "atum prædictum versus prædictum
 "Adomarum aliquis titulus in-
 "serabatur, et sic de communi
 "intellectu intelligi deberet ipsum
 "dominum Regem recuperasse
 "præsentationem suam ad Archi-
 "diaconatum prædictum in jure
 "suo proprio, Et etiam cum ipse
 "Archiepiscopus allegaverit ipsum
 "et omnes prædecessores suos
 "Archiepiscopos, &c., fuisse seisisitos
 "de advocacione ejusdem Archi-
 "diaconatus, a tempore quo non
 "extat memoria, ut de jure ecclesiæ
 "sue beati Petri Eboraci, absque
 "hoc quod idem dominus Rex aut
 "aliquis progenitorum suorum
 "unquam aliquid habuerunt in
 "advocatione illa ut in jure suo
 "proprio nisi tempore vacationis
 "Archiepiscopatus prædicti. Et
 "ex quo idem Archiepiscopus alle-
 "gaverit prædictum Adomarum
 "nec aliquem prædecessorum seu

"antecessorum suorum unquam
 "aliquid habuisse in advocacione
 "prædicta nisi solomodo quod ipse
 "fuit Archidiaconus, &c., unde
 "prædictum breve de Quare
 "impedit versus eum non jaceret de
 "jure, et petierit judicium, &c.,
 "quarum quidem responsionum
 "quælibet per se est peremptoria,
 "et in se contraria, non intendit
 "quod idem Archiepiscopus ad
 "tantas responsiones peremptorias
 "et contrarias in se admitti debeat,
 "et petit judicium pro ipso domino
 "Rege, &c."

² According to the roll there were several adjournments after the replication, and in Hilary Term in the following year there was a pleading on behalf of the King, "quod dominus Rex recuperavit præsentationem suam ad Archidiaconatum prædictum versus præfatum Adomarum per judicium Curie sue prædictæ, ad executionem ejus judicii faciendam præfatus Archiepiscopus est Minister domini Regis, per quod ad ipsum Archiepiscopum non pertinet titulum domini Regis nec judicium Curie sue prædictæ controplacitare, nec recusare facere executionem ejusdem judicii. Et ex quo idem Archie-

No. 12.

A.D. 1346. § The King brought a *Quare non admisit* against the Archbishop of York in respect of the Archdeaconry of the East Riding in the church of St. Peter of York, supposing that he had recovered by default his presentation against Aymer Roberti.—*Richemunde*. The King has not shown upon what title he recovered; judgment of the declaration.—This exception was not allowed.—*Richemunde*. Our Lord the King has a writ of *Quare impedit* pending against us in this Court in respect of the same benefice, and we do not understand that, while that writ is pending, upon which a decision with respect to the patronage may be made between us, he will be answered as to this writ.—*Thorpe*. That plea is to the action.—*Moubray*. It is not so, but on this writ we cannot plead our right of patronage, but

No. 12.

§ Le¹ Roi porta *Quare non admisit* vers Lercevesqe A.D. 1346.
 Deverwyc² del Ercedekene³ de E. en leglise de Saint
 Piere Deverwyc,² supposant qil avoit recoveri par *Quare non*
 defaute soun presentement⁴ vers Eymer⁵ Robert.— *admisit.*
Rich. Le Roi nad pas moustre sur quel tittle il
 recoveri; jugement de la moustraunce.⁶—*Non allocatur.*
—Rich. Nostre seignur⁷ le Roi ad brief de *Quare*
impedit pendant devers nous ceinz de mesme la
 benefice, et nentendoms pas qe pendant cel brief a
 quel la discussion de patronage se purra faire
 entre⁸ nous qe a ceo brief voille estre respondu.—
Thorpe. Ceo est⁹ al accion.—*Moubray.* Noun est,
 mes en ceo brief nous ne poms pleder nostre dreit

“piscopus, qui est Minister domini
 “Regis in hoc casu, clericum
 “domini Regis admittere omnino
 “recusavit, petit judicium pro
 “domino Rege, et quod prædictus
 “Archiepiscopus convincatur de
 “contemptu, &c.”

After further adjournments there
 was again a pleading on the King's
 behalf in Michaelmas Term (21
 Edward III.), “quod prædictus
 “Archiepiscopus est Minister
 “domini Regis in casu prædicto,
 “ad quem non pertinet, nec de jure
 “pertinere potest, titulum domini
 “Regis nec judicium Curie sue
 “prædictæ contraplacitare, nec
 “executionem judicii pro Rege
 “redditi facere recusare, maxime
 “cum idem Archiepiscopus aliquod
 “jus in Archidiaconatu prædicto
 “per collationem per se vel aliquem
 “prædecessorum suorum alicui de
 “Archiepiscopatu illo factam in
 “personam suam specialiter non
 “affirmat, nec in ista vacatione
 “aliquid clamat, nec allegat præ-
 “dictum Adomarum versus quem,
 “&c., tenuisse prædictum Archi-
 “diaconatum per collationem

“ipsius Archiepiscopi seu præ-
 “decessorum suorum, seu per pro-
 “visionem Curie romanæ, seu alio
 “quovismodo in jure ipsius Archi-
 “episcopi. Et præmissa per præ-
 “dictum Archiepiscopum allegata
 “non sunt tanti vigoris nec effectus
 “quin cum eisdem allegatis stare
 “possit quod dominus Rex habuit
 “jus præsentandi, &c. Et ex quo
 “idem Archiepiscopus, qui est
 “Minister domini Regis in hoc
 “casu, clericum domini Regis
 “admittere recusavit, petit
 “judicium, ut prius, pro domino
 “Rege, et quod idem Archiepiscopus
 “de prædicto contemptu convin-
 “catur, &c.”

After this follow several more
 adjournments, but nothing further.

¹ This report of the case is from
 L., and C..

² C., Deverwyke.

³ L., Ercedekne.

⁴ L., predecessour.

⁵ L., Eynter.

⁶ L., noun moustraunce.

⁷ L., seignour.

⁸ C., dentre.

⁹ C., cest, instead of ceo est.

No. 13.

A.D. 1346. only disability in the person of the presentee; and, if we plead in that manner, we shall be debarred from our answer to the *Quare impedit*, which would be too great a mischief.—WILLOUGHBY. It will be the reverse; and, if you can oust the King from this suit, you will bar him on the *Quare impedit*.—STONORE. Do you imagine that you can oust the King from his power to sue what writ he pleases? Answer.—*Richmunde* demanded oyer of the record.—And he did not have it.—*Richemunde*. We tell you that the King has a *Quare impedit* pending against us in respect of the same Archdeaconry, on which writ no declaration has been made; and we tell you that Aymer Roberti, against whom our Lord the King recovered, never had anything in the advowson, nor did his predecessors or ancestors, but he is a clerk and was Archdeacon; and we tell you that neither our Lord the King nor any of his progenitors ever had anything, as of their own right, in the advowson; and we do not understand that by virtue of such a recovery limited against one who had nothing, &c., the King will be answered; and, if our Lord the King will make another declaration as to his title, we shall be ready to answer.

Avowry. (13.) § Avowry. Peter de Mauley and Margaret his wife avowed on the Prior of Watton on the ground that the Prior held of them by homage, fealty, and scutage, that is to say, when the scutage runs at forty shillings [for one knight's fee, nine pounds], and when more more, and when less less, of which services one J.¹ was seised by the hand of the Prior's predecessor as regardant to the manor of R.,¹

¹ For the real names see p. 173, note 1.

No. 13.

de patronage, mes¹ noun ablete de la persone A.D. 1346.
 presente; et, si nous pledoms par cel manere,
 nous serroms forclos de nostre² respouns al *Quare
 impedit*, qe serreit trop grant meschief.—WILBY. Il
 serra *e contra*; et, si vous poietz ouster le Roi de
 ceste suite, vous luy barretz al *Quare impedit*.—
 STON. Quidetz vous de ouster le Roi qil ne purra
 suivre quel brief qe luy plerra? Respondez.—Rich.
 demanda oy del recorde.—*Et non habuit*.—Rich.
 Nous vous dioms qe le Roi ad un *Quare impedit*
 pendant vers nous de mesme lercedekene, a quel
 brief nulle moustraunce nest fait; et vous dioms
 qe Eymmer Robert, vers qi nostre seignour le Roi
 recoveri, navoit unges rienz en lavowesoun, ne ses
 predecessours ne auncestres, einz il est clerke, et
 fuit Ercedekene; et vous dioms qe nostre seignur³
 le Roi ne nulle de ses progenitours rienz ny avoint
 com lour dreit propre en lavowesoun; et nentendoms
 pas qe par force dun⁴ tiel recoverir taille vers celui
 qe rienz navoit, &c., le Roi voille estre respondu;
 et, si nostre seignour le Roi voille faire autre
 moustraunce de soun title, prest serroms a
 respoudre.

(13.)⁵ § Avowere. Piers⁶ de Mauley et M.⁷ sa Avowere.
 femme avowerent sur le Priour de Wattone pur [Fitz.,
 ceo qil tient de eux par homage, foialte,⁸ et escuage, Issue, 30.]
 saver, quant lescu court a xl s., et a pluis pluis, &c.,
 de queux services un J. fut seisi par my la mayn
 soun predecessour come regardants al maner de R.,

¹ mes is omitted from C.

² nostre is omitted from C.

³ L., seignour.

⁴ L., de.

⁵ From H., and I., but corrected
 by the record, *Placita de Banco*,
 Easter, 20 Edw. III., R^o 49, d.
 It there appears that the action

was brought by the Prior of
 Watton against Peter "de Malo
 "lacu le quinte," and Margaret
 his wife, and Robert Mitayn, in
 respect of a taking of 8 horses.

⁶ MSS. of Y.B., Thomas.

⁷ MSS. of Y.B., J.

⁸ I., fealte.

No. 13.

A.D. 1346, which J.¹ granted the manor, together with the Prior's services, to Peter and to Margaret, in virtue of which grant the predecessor attorned, and so they avowed for rent in arrear.—*Haveryngton*. We say that J.¹ never had anything in the seignory; ready, &c.—*Moubray*. You shall not be admitted to that, because you

¹ For the real name, see p. 173, notes 1 and 2.

No. 13.

le quel J. le maner, ensemblement ove les services A.D. 1346.
le Priour, graunta a P. et a M., par quel graunt le
predecessour attourna, et pur rente arrere avowerent.¹
—*Hav.* Nous dioms qe J. navoit unques riens en la
seignurie, prest, &c.²—*Moubray.* A ceo navendrez

¹ The avowry by Peter and Margaret, on behalf of themselves and Robert, was "quod quidam Ricardus nuper Prior loci prædicti, prædecessor prædicti Prioris nunc, tenuit de quodam Johanne de Mauley nuper persona ecclesiæ de Bayntone, ut de manerio suo de Bayntone, maneria de Wattone et Honwald, cum pertinentiis, sex mesuagia, centum tofta, tria molendina, viginti carucas terre, centum acras prati, ducentas acras moræ et pasturæ, cum pertinentiis, in villis de Killyngwyke juxta Wattone [and other villis named], et advocaciones ecclesiarum de Killyngwyke juxta Wattone et Bridesale . . . per servitia quatuor feodorum militum et dimidii, videlicet per homagium, fidelitatem, et ad scutagium domini Regis quadraginta solidorum, cum acciderit, novem librarum, et ad plus plus et ad minus minus, et faciundo sectam ad curiam ipsius Johannis de Bayntone de tribus septimanis in tres septimanas, de quibus servitiis idem Johannes de Mauley fuit seisis per manus prædicti Ricardi Prioris ut per manus veri tenentis sui, qui quidem Johannes de Mauley manerium de Bayntone prædictum ad quod, &c., dedit et concessit ipsis Petro et Margaretæ et heredibus de corporibus suis euntibus, virtute cujus donationis et concessionis prædictus Ricardus Prior se attornavit, &c., eisdem

"Petro et Margaretæ, Et, quia homagium fidelitas et secta prædicti Prioris nunc per decem et septem annos ante diem captionis prædictæ eisdem Petro et Margaretæ a retro fuerunt, pro homagio et fidelitate ejusdem Prioris advocant ipsi captionem sex equorum de prædictis equis, et pro secta, &c., advocant captionem duorum equorum de prædictis equis, in prædicto loco, ut infra feodum suum."

² According to the record, the Prior's plea was "non cognoscendo aliqua servitia esse spectantia ad prædictum manerium de Bayntone, nec quod prædictus Ricardus Prior se unquam attornavit prædictis Petro et Margaretæ, dicit quod prædicti Petrus et Margareta captionem prædictam ratione prædicta super ipsum justam advocare non possunt, dicit enim quod ubi prædicti Petrus et Margareta in advocare suo prædicto supponunt præfatum Johannem de Mauley fuisse seisis tum de prædicto manerio de Bayntone, unde supponunt servitia prædicta esse parcella, &c., idem Johannes de Mauley nunquam aliquid habuit in dominio nec in servitio prædicti Ricardi Prioris prædecessoris, &c., sicut prædicti Petrus et Margareta superius asserunt. Et hoc paratus est verificare, unde petit judicium, &c."

No. 14.

A.D. 1346. have not denied that your services were parcel of the manor, nor have you denied the grant or the attornment; therefore you shall not be admitted to take issue on the estate of the grantor any more than it is taken in a Formedon; and, moreover, if J. had nothing in the seignory, you might on that ground safely disclaim, or plead "out of your fee"; wherefore, &c.—*Haveryngton*. Then you refuse the averment.—And *Moubray* did not dare to abide judgment.—Therefore the averment was admitted.

Avowry (14.) § William son of Roger Smyth, of Wycombe, avowed the taking on the plaintiff, and said that Roger his father was seised of services by the hand of one Margaret.—*Grene*. We tell you that one J. granted the same services by fine to Roger and to this same Margaret his wife, to hold to them and to their heirs. And *Grene* made *profert* of a part of the fine. And *Grene* demanded judgment since the avowant had laid the seisin by the hand of Margaret, who had a joint estate with Roger in the seignory, and also was his wife, by whose hand no seisin could be laid as being had by Roger, and for that reason he demanded judgment of the avowry.—*Huse*. We say that Roger, our father, was seised by the hand of Margaret before the marriage; ready, &c.—And the plaintiff's attorney offered to aver the contrary.—Afterwards *Grene* came on behalf of the plaintiff, and said that, since the avowant had not denied the purchase of the services by the fine, which is a proof that it was after the marriage (for if it were not a proof he would have the averment) the

No. 14.

mye, qar vous navetz pas dedit qe vos services ne A.D. 1346. furent parcele del manere, ne le graunt et lattournement; par quei a prendre issue sur lestat le grantour ne serrez resceu, nent plus qen fourme de doun pris; et auxi si J. avoit riens en la seignurie, *ergo* vous poietz salvement desclamer, ou pleder hors de vostre fee; par quei, &c.—*Hav.* Donques refusetz laverement.—Et *Moubray* nosa pas demurer.—Par quei laverement fut resceu.¹

(14.)² § William le fitz Roger Smyth, de Wycombe, Avowere. avowa la prise sur le pleintif, et dit qe Roger son pere fut seisi des services par³ la mayn une Margarete.—*Grene.* Nous vous dioms qun J. graunta mesmes les services par fine a Roger et a mesme ceste Margarete sa femme, a eux⁴ et a lour heirs. Et mist avant partie de la fine. Et demanda jugement del houre qe il ad lie la seisine par⁵ la meyne M., qavoit joint estat en la seignurie ov luy, et auxi fut sa femme, par qi mayn nulle seisine par R. put estre lie, par quei il demanda jugement del avowere.—*Huse.* Nous dioms qe R. nostre pere fut seisi par la mayn M. avant les esposailles; prest, &c.—Et lattourne lautre tendi daverer le contraire.⁵—Apres *Grene* vint pur le pleintif, et dit qe de puis qil nad pas dedit le purchas des services par la fine, qest prove puis les esposailles, qar autrement il

¹ According to the record there was a replication, upon which issue was joined, "quod prædictus Johannes de Mauley fuit seisitus "de dominio et servitiis prædicti Ricardi Prioris, prout ipse superius "in advocare suo supponit."

There was afterwards a verdict at *Nisi prius*, "quod prædictus Johannes de Mauley nunquam "aliquid habuit in dominio nec in "servitiis ipsius Ricardi Prioris de "Wattone sicut iidem Petrus et

"Margareta per advocare suum "supponunt. Juratores quæsitii ad "quædamna, &c., dicunt quod "ad damnum ipsius Prioris decem "librarum."

Judgment was accordingly given for the Prior to recover his damages.

² From H., and I.

³ I., par my.

⁴ H., eaux.

⁵ I., revers.

No. 15.

A.D. 1346. avowant should not be admitted to aver the seisin of the services before the marriage, without adding that he purchased the services before the marriage, for otherwise he would have the averment that he was seised of the services before the purchase of the services, which is contrary to law. And though the party has replied, and a day is given, it is for the Court to see whether the averment is admissible.—And in the end the issue was accepted as above.

Escheat. (15.)¹ § One John² brought a writ of Escheat against Thomas Ughtred, and supposed that one J.³ held of him, and committed felony, for which he was outlawed. And the count was to the effect that the felony was committed in the time of the present King.—*Moubray*. We tell you that this same J., in the twelfth year of the father of the present King, adhered to the Scots, the King's enemies, in the county of York, who put the King's land to fire and flame, for which adherence the father of the present King seized this same land, and was seised in the Exchequer, during all his time, of the issues of the same land. And *Moubray* made *profert* of an exemplification of the issues as to which an account was

¹ This report is in continuation of Y.B., Mich., 19 Edw. III., No. 43, p. 392.

² For the full name, see p. 177, note 1.

³ For the real name, see p. 177, note 1.

No. 15.

avereit laverement, qil ne serra pas resceu daverer A.D. 1346.
la seisine des services avant les esposailles, saunz
doner qil purchacea les services avant les esposailles,
gar autrement il avereit laverement qil fut seisi des
services avant le purchas des services, qest encountre
ley. Et mesqe partie eit replie, et jour soit done, a
la Court est a veer si laverement soit acceptable.—
Et a drein lissue fut resceu *ut supra*.

(15.)¹ § Un Johan porta brief Deschet vers Eschet.
Thomas Ughtred,² et supposa qun J. tient de luy, et
fist felonie, par quel il fut utlage. Et counta qe la
felonie se fit en temps le Roi qore est.³—*Moubray*.
Nous vous dioms qe mesme celuy J., lan xij⁴ pere
le Roi qore est saerda a les Escoz, enemys le Roy,
en le counte Deverwyke, et mistrent la terre le Roi
en feu et flamme, par quele aesioun le pere le Roi
qore est seisisit mesme cele terre, et tut son temps
en Lescheker seisi de les issues de mesme la terre.
Et mist avant exemplificacion de les issues qe le

¹ From H., and I., but corrected by the record, *Placita de Banco*, Easter, 20 Edw. III., R^o 296. It there appears that the action was brought by John Minyot, knight, against Thomas Ughtred, knight, in respect of the manor of Islebeke (Islebeck, Yorks.), with certain exceptions, "quod Willelmus de Islebeke de eo tenuit per certa servitia, et quod ad ipsum reverti debet tanquam escaeta sua, eo quod prædictus Willelmus feloniam fecit pro qua utlagatus fuit."

² MSS. of Y.B., Sustred.

³ In the count, as it appears in the record, the services by which the manor was held are stated in detail. As to the felony, "idem Willelmus indictatus fuit coram domino Rege apud Eboracum, termino Sancti Michaelis anno

"regni domini Regis nunc decimo,
"de eo quod idem Willelmus furtive
"cepit viginti solidos de quodam
"Alano de Kirkeby, apud Kirkeby
"Wyske, die Martis proxima post
"festum Sancti Michaelis anno
"regni Regis Edwardi patris
"domini Regis nunc decimo octavo,
"prætextu cujus indictamenti præ-
"dictus Willelmus postea, pro eo
"quod non comparuit, positus fuit
"in exigendo ad utlagandum,
"&c., et ea occasione fuit
"utlagatus per breve domini Regis,
"quod quidem breve retortatum
"fuit coram domino Rege apud
"Eboracum in Octabis Sancti
"Michaelis anno regni domini Regis
"nunc undecimo. Et petit quod
"prædictus Thomas respondeat,
"&c."

⁴ H., viij.; I., xiiij.

No. 15.

A.D. 1346. rendered to the King in the Exchequer by reason of J.'s forfeiture. And *Moubray* said that the land descended to the present King, who gave it to one Simon Symeon in fee, which Simon gave it to the tenant in fee, and the King by his charter confirmed that gift. And (said *Moubray*) we demand judgment, since the King, the father of the present King, seized the land by reason of an adherence which occurred a long time before you suppose the felony to have been committed on which you take your action, whether you can have an action against us who have the King's estate.—

No. 15.

Roi fut servi en Lescheker par resoun de sa forfeiture. Et A.D. 1346. dit qe la terre descendi al Roi qore est, le quel la dona a un Simond Symeon en fee, le quel la dona a luy, et le Roi par sa chartre cel doun conferma. Et demandoms jugement, puis qe le Roi le pere le seisisit par resoun dun aesioun fait longe temps avant qe vous supposez la felonie fait de quei vous pernetz vostre accion, si vous vers nous qe avoms lestat le Roi puissez accion aver.¹

¹ Thomas Ughtred's plea was, according to the record, "non cognoscendo quod prædictum manerium, exceptis, &c., tenetur de prædicto Johanne, dicit quod idem Johannes actionem inde versuseum habere non debet, quia dicit quod prædictus Willelmus, die Mercurii proxima post Festum Sancti Michaelis anno regni Regis Edwardi patris domini Regis nunc duodecimo, apud Threske, adhæsit Thomæ Randolf, Comiti de Murref, et aliis Scotis inimicis et rebellibus ejusdem Regis, qui destruxerunt et combusserunt villam de Threske, et alias villas circumquaque in Anglia, ratione cujus adhæssionis idem Rex pater, &c., seisivit in manum suam manerium prædictum, simul cum aliis tenementis quæ fuerunt prædicti Willelmi, per forisfacturam ejusdem Willelmi, et de exitibus eorundem Escaetor prædicti Regis patris, &c., anno regni sui tertiodecimo, quarto-decimo, quintodecimo, et sexto-decimo, ad Scaccarium suum respondit. Et de ipso Edwardo Rege patre, &c., descendit manerium prædictum, exceptis, &c., isti domino Regi nunc, ut filio et heredi, &c., qui quidem dominus Rex nunc per chartam suam manerium illud cum pertinentiis, exceptis, &c., dedit et concessit cuidam Simoni Symeon tenendum sibi et heredi-

"bus suis in perpetuum. Et idem Simon postea per chartam suam idem manerium, cum pertinentiis, exceptis, &c., dedit et concessit ipsi Thomæ, tenendum sibi et heredibus suis in perpetuum, in cujus seisinâ manerio prædicto existente dominus Rex nunc cessionem et donationem præfati Simonis confirmavit et ratificavit. Et profert hic literas domini Regis nunc patentes, quæ testantur quod prædictus Escaetor prædicti Regis patris, &c., anno regni ejusdem Regis tertiodecimo, respondit ad Scaccarium ejusdem patris de exitibus manerii prædicti, exceptis, &c., ratione supradicta. Profert etiam hic literas patentes ejusdem Regis nunc quæ donationem præfati Simoni de præfato manerio, exceptis, &c., et confirmationem inde eidem Thomæ in forma supradicta testantur, &c., et sic dicit quod prædictus dominus Rex pater, &c., fuit seisitus de prædicto manerio, cum pertinentiis, exceptis, &c., in dominico suo ut de feodo et jure, per forisfacturam prædicti Willelmi ratione prædictæ felonie anno regni ejusdem Edwardi Regis patris domini Regis nunc duodecimo factæ, unde petit judicium si idem Johannes, ratione alicujus felonie post tempus prædictum commissæ, actionem inde versus eum habere debeat, &c."

No. 16.

A.D. 1346. *Richemunde*. Sir, you see plainly how he alleges an adherence, which is a matter falling under the head of record; and of that nothing is shown by them; judgment.—And they were adjourned, *prece partium*, without giving any answer at the bar.

*Quare
impedit.*

(16.) § Richard, Earl of Arundel, brought a *Quare impedit* against a Prior,¹ and counted that a dispute arose, upon a vacancy, between his grandfather² and the Prior's predecessor, and thereupon an agreement was made to the effect that the predecessor and his successors should present twice, and his ancestor and the ancestor's heirs on the third vacancy interchangeably for ever. Therefore the Prior's predecessor presented two parsons on two vacancies, and on the next vacancy afterwards his grandfather presented the third parson, and then the Prior's predecessor on two other vacancies, and at the time of the next vacancy afterwards Edmund his father³ was under age, and the Prior's predecessor usurped [one presentation], and afterwards presented twice, and this is the third vacancy afterwards, which belongs to him, and so it belongs to him to present.—*Derworthy*. You see

¹ Against the Abbess of Shaftesbury, according to the record. See p. 181, note 2.

² great-grandfather, according to the record. See p. 181, note 3.

³ Richard, Earl of Arundel, the plaintiff himself, according to the record. See p. 183, note 3.

No. 16.

—*Richem.* Sire, vous veiez bien coment il allegge A.D. 1346. une aesioun, quele chose chiet en recorde, et de ceo ne moustretz rien ; jugement.—Et sount ajournez, *prece partium*, saunz nul respons doner al barre.¹

(16.)² § Richard Counte Darundel porta *Quare Quare impedit* vers un Priour, et counta qe debate sourdy [Fitz., sur une voidaunce, entre soun aiel et le predecessour *Quare impedit*, le Priour, par quei acord se prist qe le predecessour 62.] et ses successours presenterount deux foitz, et son auncestre et ses heirs al tierce voidaunce, entrechangeablement a touz jours. Par quei son predecessour presenta ij persones a ij voydaunces, et a la procheyn voydaunce apres son aiel presenta la terce persone, et son predecessour presenta autres ij a autres ij voidaunces, et a la procheyn voydaunce apres, Esmond son pere fut deinz age, et son predecessour purprist, et puis presenta ij foitz, et cest le terce voidaunce apres, quel attient a luy, et issi attient a luy a presenter.³—*Der.* Vous veietz

¹ According to the roll there were several adjournments after the plea, and, at last, "venit prædictus Thomas per attornatum suum, et obtulit se quarto die versus prædictum Johannem de prædicto placito. Et ipse non venit et fuit petens. Ideo consideratum est quod prædictus Johannes et plegii sui de proseguendo in misericordia, et Thomas inde sine die, &c."

² From H., and I., until otherwise stated, but corrected by the record, *Placita de Banco*, Easter, 20 Edw. III., R^o 63, d. It there appears that the action was brought by Richard, Earl of Arundel, against the Abbess of Shaftesbury in respect of a presentation to the church of Kyvele (Keevil, Wilts).

³ The declaration was, according to the record, "quod cum quædam nuper Abbatisa Shaftoniæ, prædecessor prædictæ nunc Abbatisæ, et quidam Johannes fitz Aleyn, antecessor præfati Comitissæ, cujus heres ipse est, fuerunt seisisi de advocacione ecclesiæ prædictæ ut de feodo et jure ipsius Johannis et de jure Abbatisæ ecclesiæ suæ Sancti Edwardi Shaftoniæ, . . . tempore H. Regis proavi domini Regis nunc, inter quos inde postmodum contentio mota fuit super præseptione ecclesiæ de Kyvele prædictæ, et contentio illa tandem sedata et pacificata fuit in hunc modum, scilicet, quod prædicta Abbatisa quæ tunc fuit et successoræ suæ in duabus vacationibus ecclesiæ prædictæ extunc

No. 16.

A.D. 1346. plainly how he supposes a composition to have been made between his grandfather and our predecessor, and he does not, by his declaration, assign the patronage as having been in them previously, so that the composition between them could be operative; judgment.—And this exception was not allowed.—And afterwards exception was taken to the writ on the ground that the plaintiff did not allege between which predecessor and his grandfather the composition was made, by giving the predecessor a baptismal name; judgment.—And this exception was not allowed.—*Derworthy*. They have counted as to a composition; have they anything to prove that?—*Thorpe*. We have shown the composition to have been put in operation, and you do not answer any-

“ proxime accidentibus ad eandem
 “ ecclesiam præsentarent, &c., et
 “ sic prædicta Abbatissa et succes-
 “ sores suæ in duabis vacationibus
 “ ecclesiæ de Kyvele prædictæ, et
 “ prædictus Johannes et heredes
 “ sui in tertia vacatione, &c.,
 “ vicissim præsentarent in per-
 “ petuum ad eandem. Et dicit quod
 “ in eadem vacatione ecclesiæ præ-
 “ dictæ post compositionem præ-
 “ dictam prædicta Abbatissa, præ-
 “ decessor, &c., incipiendo turnum,
 “ &c., præsentavit ad eandem
 “ quendam Johannem Barel, cleri-
 “ cum suum, qui ad præsentationem
 “ suam fuit admissus et institutus
 “ . . . tempore prædicti H.
 “ Regis proavi domini Regis nunc
 “ Et postea, vacante ecclesia præ-
 “ dicta per mortem prædicti
 “ Johannis Barel, Abbatissa Shaf-
 “ toniæ quæ tunc fuit, prædecessor
 “ prædictæ nunc Abbatissæ, con-
 “ tinuando turnum suum, &c.,
 “ præsentavit ad eandem quendam
 “ Johannem de Kent, clericum

“ suum, qui ad præsentationem
 “ suam fuit admissus et institutus.
 “ . . . Et de ipso Johanne fitz
 “ Aleyn descendit advocatio ecclesiæ
 “ prædictæ præsentandi per turnum,
 “ &c., cuidam Ricardo nuper Comiti
 “ Arundellæ ut filio et heredi,
 “ &c. Et postmodum, vacante
 “ ecclesia prædicta per mortem
 “ prædicti Johannis de Kent, præ-
 “ dictus Ricardus fitz Aleyn Comes
 “ Arundellæ, filius et heres prædicti
 “ Johannis fitz Aleyn, ut in turno
 “ suo, &c., secundum formam com-
 “ positionis prædictæ, presentavit
 “ ad eandem quendam Robertum
 “ de Leycestre, clericum, &c., qui
 “ ad præsentationem suam fuit
 “ admissus et institutus
 “ tempore Edwardi Regis avi
 “ domini Regis nunc. Et, vacante
 “ ecclesia illa per resignationem
 “ ejusdem Roberti, Abbatissa Shaf-
 “ toniæ quæ tunc fuit, prædecessor
 “ prædictæ nunc Abbatissæ, præ-
 “ sentavit ad eandem quendam
 “ Rogerum Flemyngh, clericum

No. 16.

bien coment il suppose un composicion estre fait entre son aiel et nostre predecessour, et par sa demoustrance il ne doune pas avowere en eux¹ avant, issint qe la composicion put entre eux oeperer; jugement.— *Et non allocatur.*—Et puis le brief chalenge de ceo qil nallegge pas entre quel predecessour et son aiel la composicion se prist, come a doner a luy noun de Baptisme; jugement.— *Et non allocatur.*—Der. [Fitz.,
 Ils ount compte dun composicion; ount ils riens de *Monstrans*
 cele?—*Thorpe.* Nous avoms moustre la composicion *de faits*
 estre mys en oepe, et a ceo vous ne responez *finis et*
records,
 70.]

“ suum, qui ad præsentationem
 “ suam fuit admissus et institutus.
 “ Et, vacante ecclesia illa
 “ per mortem prædicti Rogeri,
 “ Abbatissha Shaftonis quæ tunc
 “ fuit, prædecessor prædictæ nunc
 “ Abbatisshæ, præsentavit ad eandem
 “ quendam Walterum Hervy, cleri-
 “ cum suum, qui ad præsentationem
 “ suam fuit admissus et
 “ institutus tempore Edwardi
 “ Regis patris domini Regis nunc.
 “ Et de ipso Ricardo filio Johannis
 “ descendit advocatio præsentandi
 “ per turnum, &c., cuidam Edmundo
 “ nuper Comiti Arundellæ, ut filio
 “ et heredi, &c. Et de ipso
 “ Edmundo descendit advocatio
 “ præsentandi per turnum, &c., isti
 “ Ricardo qui nunc sequitur, ut
 “ filio et heredi, &c. Et postmodum,
 “ vacante ecclesia illa per mortem
 “ prædicti Walteri, Abbatissha Shaf-
 “ tonis quæ tunc fuit, prædecessor
 “ prædictæ nunc Abbatisshæ, usur-
 “ pando super prædictum Ricardum
 “ nunc Comitem, consanguineum
 “ et heredem prædicti Ricardi fits
 “ Aleyn, tempore quo idem Ricardus
 “ nunc Comes fuit infra ætatem,
 “ &c., præsentavit ad eandem quen-
 “ dam Johannem Hervy, clericum

“ suum, qui ad præsentationem
 “ suam fuit admissus et institutus
 “ tempore domini Regis nunc.
 “ Et, vacante ecclesia illa per
 “ mortem prædicti Johannis Hervy,
 “ Abbatissha Shaftonis quæ tunc
 “ fuit, prædecessor prædictæ nunc
 “ Abbatisshæ præsentavit ad eandem
 “ quendam Magistrum Johannem
 “ de Kyrkeby, clericum suum, qui
 “ ad præsentationem suam fuit
 “ admissus et institutus
 “ tempore ejusdem domini Regis
 “ nunc. Et postea, vacante ecclesia
 “ illa per resignationem prædicti
 “ Johannis de Kyrkeby, Abbatissha
 “ de Shaftonia quæ tunc fuit, præ-
 “ decessor prædictæ nunc Abbatisshæ,
 “ præsentavit ad eandem quendam
 “ Robertum de Weyvelle, clericum
 “ suum, qui ad præsentationem
 “ suam fuit admissus et institutus
 “ tempore ejusdem Regis nunc, per
 “ cujus mortem prædicta ecclesia
 “ modo vacat. Et quia ista vacatio
 “ est turnus præfatum Comitem
 “ contingens virtute composi-
 “ tionis prædictæ pertinet ad ipsum
 “ Comitem ad ecclesiam illam præ-
 “ sentare, prædicta Abbatissha ipsum
 “ injuste impedit.”

¹ I., eaux.

No. 16.

A.D. 1346. thing to that; judgment.—*Dercorthy*. We do not admit the composition, but we tell you that we and our predecessors were seised of the advowson from time whereof there is no memory, *absque hoc* that the person whom he alleges to have been presented by his grandfather was admitted on his presentation.—*Haveryngton*. Ready, &c., that he was admitted on the presentation of our grandfather.—And so to the country.

*Quare
impedit.*

§ The Earl of Arundel brought a *Quare impedit* against the Abbess of Burnham,¹ counting that John his ancestor and the Abbess's predecessor were seised of the advowson, and made a composition to the effect that the Abbess and her successors should present on the two next vacancies, and John and his heirs on the third, and so interchangeably for ever. And he counted that the Abbess's predecessor, in accordance with the composition, presented twice, and afterwards John on the third vacancy, and showed afterwards that by reason of presentations made by

¹ The Abbess of Shaftesbury, according to the record. See p. 181, note 2.

No. 16

rien; jugement.—*Der.* Nous ne conissons pas la A.D. 1346
composicioun, mes nous vous dioms qe nous et noz
predecessours fumes seisis del avoweson de temps
dout il ny ad memore, saunz ceo qe celui qil dit
qe fut presente par son aiel fut resceu a son
presentement.¹—*Har.* Qil fut resceu al presentement
nostre aiel, prest, &c.—*Et sic ad patriam, &c.*²

§ Le³ Count Darundelle porta *Quare impedit* vers Labbesse de Brimham, countant qe J. soun auncestre et la predecessoresse Labbesse furent seisis del avoesoun, et firent composicioun qe Labbesse et ses successours presentassent a les deux procheinz voidaunces, et J. et ses heirs a la terce, et issint entrechaungeablement a touz jours. Et counta qe la predecessoresse, &c., par la composicioun, presenta deux foith, et puis J. a la terce, et moustra apres par

¹ The plea on behalf of the Abbess was "non cognoscendo seisinam
"prædicti Johannis fitz Aleyn nec
"alicujus Abbatissæ loci prædicti
"de advocacione prædicta fuisse in
"communi, &c., nec aliquam com-
"positionem inter ipsum Johannem
"et aliquam Abbatissam de præ-
"sentatione ecclesiæ prædictæ fac-
"tam fuisse sicut idem Comes per
"narrationem suam supponit, dicit
"quod ipsa Abbatissa et prædeces-
"sores suæ, a tempore quo non
"extat memoria, fuerunt integræ
"advocatæ ecclesiæ prædictæ, et
"tanquam integræ advocatæ præ-
"sentarunt ad eandem ecclesiam,
"et præsentati ad earum præsentationem
"admissi, &c. Et dicit quod,
"ubi prædictus Comes par narra-
"tionem suam prædictam supponit
"quod prædictus Robertus de
"Leycestre fuit admissus et
"institutus in ecclesia prædicta ad
"præsentationem prædicti Ricardi
"fitz Aleyn, idem Robertus fuit

"admissus et institutus in ecclesia
"prædicta ad præsentationem
"cujusdam Mabillæ tunc Abbatissæ
"Shaftoniæ, prædecessoris Abba-
"tissæ nunc, et non ad præsentationem
"prædicti Ricardi Comitis,
"&c. Et hoc parata est verificare,
"unde petit judicium, et pro præ-
"dictis præsentationibus cognitis
"breve Episcopo, &c."

² The replication upon which issue was joined was, according to the record:—"Comes dicit quod
"prædictus Robertus de Leicestre
"fuit admissus et institutus in
"ecclesia prædicta ad præsentationem
"prædicti Ricardi fitz Aleyn
"Comitis, &c., prout ipse superius
"narravit, et non ad præsentationem
"prædictæ Mabillæ
"Abbatissæ, &c."

The *Venire* was awarded, but nothing further appears on the roll.

³ This report of the case is from L., and C.

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A.D. 1346. two of the Abbess's predecessors, and of usurpation into their own hands, this was the ninth vacancy. And he made the descent from John to himself, and said that so it belonged to him to present.—And exception was taken to the count on the ground that it did not affirm any possession of the patronage in those who made the composition.—This exception was not allowed.—Afterwards judgment was demanded on the ground that the Earl did not produce any specialty of the composition between persons who were strangers in blood.—This exception was not allowed.—*Derworthy*. We tell you that the Abbess and her predecessors have from all time been seised of this advowson, *absque hoc* that the person whom he supposes to have been presented in accordance with the composition (which composition we do not admit) was admitted on the presentation of John, his ancestor; and on the presentations admitted to have been made by us we pray a writ to the Bishop.—*Grene*. He was admitted on the presentation of John¹; ready, &c.—And the other side said the contrary.

Voucher (17.) § In London one foreign to the city was vouched, and the parties were adjourned into the Common Bench, as the Statute of Gloucester² purports. And process was made in the Bench as far as the *Sequatur suo periculo*, when the Sheriff returned that the vouchee was dead. And, because the tenant had it at his election either to plead in chief or to vouch the deceased vouchee's heir, the parol was remanded into London. And, even though he should revouch the heir, he will be again adjourned into the Bench.

Voucher. § Note that, on the voucher, in the county of Chester,³ of a person foreign to the county, the Sheriff testified in return to the *Cape ad valentiam* in the Common Bench that the vouchee was dead, and the demandant admitted the fact. And the parol was remanded into the county.

¹ John's son, according to the record. | corrected by Stat., 9 Edw. 1.

² 6 Edw. 1. (Stat. Glouc.), c. 12, | ³ See p. 187, note 7. See 2 Inst., 324.

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presentements fet par les deux ¹ predecessoresses, A.D. 1346. &c., qe par purprise qen lour tenures demene cest la ix^{me} voidaunce. Et fist la descente de J. a luy, et issint appent a luy a presenter.—Et le count est chalenge de ceo qil nafferma pas lour possessioun en lavowere qe firent² la composicioun.—*Non allocatur.*—Puis fuit demande jugement del heure qil ne moustra pas especialte de la composicioun entre ces qe sount estranges de sank.—*Non allocatur.*—*Der.* Nous vous dioms qe Labbesse et ses predecessoresses de tut temps ount este seisis de ceste avowesoun, saunz ceo qe celui qil suppose qe par la composicioun, quel nous conissoms pas, fuit resceu al presentement J.³ soun auncestre; et sur les presentements conutz a nous prioms brief al Evesqe.—*Grene.* Il fuit resceu al presentement J.; prest, &c.—*Et alii e contra.*

(17.)⁴ § En Loundres forein fut vouche, et ajourne Voucher. en comune Baunk, come lestatut de Gloucestre⁵ voet. Et proces fait en Baunk tanqal *Sequatur suo periculo* qe le Vicounte retourna qe il fut mort. Et, pur ceo qe le tenant fut en eleccion ou de pleder en chief ou de voucher soun heir, la paroule fut remande en Loundres. Et mes qil revouche leir⁶ il serra ajourne en Baunk, &c.

§ *Nota*⁷ qe sur voucher de forein el Counte de Voucher. Cestre en Comune Baunk al *Cape ad valentiam* le Vicounte⁸ tesmoigna qe le vouche est mort, et le demandant le conust. Et la paroule⁹ est remaunde.

¹ deux is omitted from C.

² L., furent.

³ J. is omitted from L.

⁴ From H., and I., until otherwise stated.

⁵ MSS. of Y.B., Gavelk.

⁶ L., le heir.

⁷ This report is from L., and C.

Though the foreign voucher is here described as having been in county of Chester, and in the other report as having been in London, the two appear to be reports of one and the same case.

⁸ C., Viscount.

⁹ L., parol.

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A.D. 1346 And the COURT would not permit a revoucher in the Common Bench in this case.—And observe that on the first day an essoin was adjudged, and a day was given in the Common Bench for the tenant.—See below in the next term.

Debt
against
executors.

(18.) § A writ of Debt was brought against two executors. At the return of the Grand Distress one of them appeared and said, by *Moubray*, that he was not executor, and had not administration of the goods of the deceased.—*Grene*. You see plainly how our suit is taken against two, and the Statute¹ purports that on the return of the Grand Distress the one who appears shall answer, and, if the decision be against him, the plaintiff shall have judgment as well against the one who is out of Court as against him; and, since you have not denied that the other, who is out of Court, has goods of the deceased in his hands, we do not understand that we have any need to answer to that which you have said.—*STOURFORD*. He has to plead for himself, and not for another person; and even though he be executor and will not administer, it is not necessary that he should be so named individually (but it is otherwise with regard to naming the executors collectively) and therefore, since you have named him, he discharges himself by the non-administration, without having regard to the question whether the other has administered or not.—Therefore the plaintiff was put to answer over, and said, by *Grene*, that the goods of the deceased came into his hands; ready, &c.—*Moubray*. Ready, &c., that the goods never came into our hand as executor.—*WILLOUGHBY*. Since you do not deny that the goods came into your hand, you shall not be admitted to say that they did not come to you as executor, without showing how they did come to you for some other

¹ 9 Edw. III., St. 1, c. 3.

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Et COURT ceinz ne voet soeffrere revoucher el cas.—A.D. 1346.
Et vide al primer jour une essone ajuge, et adjourne
 ceinz pur le tenant.—*Infra proximo termino*.¹

(18.)² § Dette porte vers ij executours. A la Dette vers
 grande⁴ destresse retourne lun vint et dit, par, execu-
 Moubray, qe il ne fut pas executour, ne administra- tours.³
 cion avoit des biens le mort.—*Grene*. Vous veietz
 bien coment nostre sute est pris vers ij, et lestatut
 voet qe a la graunde⁴ destresse retourne celi qe vient
 respondra, et, sil soit atteint, le pleintif avera jugement
 auxi bien vers celi qest hors de Court come vers
 lui; et, de puis qe vous navez pas dedit qe lautre,
 qest hors de Court, nad de biens le mort entre
 maynes, nentendoms pas qe a ceo qe vous avez dit
 eyoms meister a respondre.—*Stour*. Il ad a pleder
 pur luy mesme et nemye pur autre persone; et,
 mesqil soit executour et ne voet administrer, il ne
 covient pas qil soit nome par voie de defens, mes
 autre est par voie de pleine,⁵ par quei, puis qe vous
 lavez nome, par la noun administracion il se
 descharge, saunz aver regarde le quel qe lautre eit
 administre ou nient.—Par quei le pleintif fut mys
 outre, et dit, par *Grene*, qe les biens le mort
 deviendrent en ses mayns; prest, &c.—*Moubray*. Qe
 les biens ne vindrent unques en nostre mayn come
 executour prest, &c.—*WILBY*. Puis qe vous ne dedites
 pas qe les biens ne devindrent en vostre mayn, a
 dire qils ne vous vindrent pas come executour, saunz
 moustrer coment ils vindrent par autre cause, ne

¹ The reference appears to be to Y.B., Trin., 20 Edw. III., No. 4. The foreign voucher is there again described as being in London.

² From H., and I., until otherwise stated.

³ The words vers executours are omitted from H.

⁴ I., graunt.

⁵ H., plee.

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A.D. 1346. cause.—Therefore he said that the goods never came into his hand; ready, &c.—And the other side said the contrary.

Debt. § Debt against A. and B., executors.—*Huse*. They never administered, nor did the goods of the deceased, after his death, come into their hands as executors; ready, &c. Judgment whether they shall be charged.—*Grene*. The writ is brought against them, and others who do not appear, and who possibly have assets, and a judgment in our favour will be given against the others, on their plea, as well as against them, and therefore this is not an answer.—This exception was not allowed.—*Grene*. Then you see plainly that they do not deny that they are named as executors, nor that the goods of the deceased came into their hands, and though they say that it was not as executors that the goods came into their hands, it will not be understood that they obtained possession of the goods in any other way than as executors; therefore, since nothing else is shown by them, judgment whether they shall be admitted to such an averment.—*Huse*. Although the testator named us as executors, we are not on that account chargeable if we have not administered and taken possession of his goods as executors, and it is possible that we have, by purchase or other contract, some goods which were his.—*WILLOUGHBY*. Show that to be so.—*Huse*. The goods of the deceased did not come into our hand after his decease; ready, &c.—And the other side said the contrary.

Error. (19.) § A *Scire facias* upon a fine was sued in the Common Bench for Constance de Neville, who was in remainder, and one prayed to be admitted to defend his right by reason of the default of the tenant. He died, and his heir came afterwards and said that he was under age, and that the reversion had descended to him, and prayed to be admitted,

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serrez resceu.—Par quei il dit qe les biens ne devien- A.D. 1346.
drent unges ou sa mayn; prest, &c.—*Et alii e contra.*

§ Dette¹ vers A. et B. executours.—*Huse.* Ils nam- Dette.
mistrerent unges, ne les biens le mort apres sa mort
ne devyndreint pas en lour meins come executours;
prest, &c. Jugement sils serrount charges.—*Grene.*
Le brief est porte² vers eux, et autres qe ne veignent³
pas, qe par cas ount assetz, et nostre jugement se fra
vers les autres, sur lour plee, si bien come vers eux,
par qai ceo nest pas respouns.—*Non allocatur.*—*Grene.*
Donques vous veietz bien coment ils ne dedient pas qils
ne sount executours nommes, ne qe les biens le mort
devyndreint en lour meins, et coment qils dient noun
pas come as executours, ceo ne serra pas entendu qe
par autre manere ils avyndreint a les biens mes come
executours; par qai del houre qautre chose⁴ deux⁵
nest moustre par qai jugement si a tiel averement,
&c.—*Huse.* Coment qe le testatour nous noma execu-
tours, par taunt nous ne sumes pas chargeable si
nous nussoms administre et ocupe ses biens come
executours, et par cas nous avoms des biens qe furent
a luy dachat ou dautre contracte.—*WILBY.* Moustretz
cella.—*Huse.* Les biens le mort ne devyndreint pas en
nostre mein apres sa mort; prest, &c.—*Et alii e contra.*

(19.)⁶ § Un *Scire facias* hors dune fine pur Erreur.
Custance de Neville en remeindre fut suy en [Fits.,
Comune Baunk, et par la defaute le tenant un pria Errour, 2.]
destre resceu, et murust, et son heir vient apres,⁷
et dit qil fut deinz age, et la reversion luy est
descendu, et pria destre resceu, &c., et fut resceu.

¹ This report of the case is from L., and C.

² porte is omitted from C.

³ C., vieignent.

⁴ chose is omitted from C.

⁵ C., de eux.

⁶ From H., and I. The report may be in continuation of Y.B., Mich., 16 Edw. III., No. 54.

⁷ In the MSS. the words et fut resceu are inserted after the word apres, and not at the end of the sentence as in the text above.

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A.D. 1346. and was admitted. And because he was under age he prayed his age. And, notwithstanding this, the Justices of the Common Bench awarded execution. And now errors were assigned [in the King's Bench]: one (said Counsel) in that the Justices of the Common Bench ought to have put the parol without delay by reason of our non-age; another in that, even though we ought not to have had our age allowed, inasmuch as they awarded execution when we were ready to answer if they were minded to give judgment that we should not have our age, they therein erred.—*Grene*. You see plainly how the fine is the original of this plea, and it has not been sued into this Court, and for that reason a full record has not been sent; and therefore we do not understand that before you have a full record you will proceed to the examination of the errors assigned.—*Skipwith*. Our object is to reverse not the fine, but the judgment in the *Scire facias*; and whatever is parcel of that is entered on the roll which is sent.—*Grene*. In a Formedon in the remainder, if *profert* is made of a specialty, it must be entered on the roll, and if the object is to reverse the judgment the specialty itself must be caused to come as parcel of the record; and moreover, if the law be such that he ought not to have had his age, even though they erred in that they awarded execution when he ought to have been put to answer, yet if the judgment be now reversed for that reason, and he have restitution, he will be in the same position with regard to the plea as he would have been if that other award had then been made, that is to say, that he should answer to our action, and that he cannot do unless the fine or the tenor of it be in this Court; therefore, &c.—*Skipwith*. When that point is reached at which it is necessary to answer to your fine, it will be the time to cause it to come, and not before;

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Et pur ceo qil fut deinz age il pria son age. Et, A.D. 1346 *non obstante*, ils agarderent execucion. Et ore erreurs assignez : un de ceo qils duissent aver mys la paroule saunz jour par nostre nounage ; un autre, mesqe nous ne duissoms pas aver eu nostre age, en taunt qils agarderent execucion, la ou nous fumes prest a respondre sils voleient aver agarde qe nous naveroms pas nostre age, et en taunt errerent ils.—*Grene*. Vous veietz bien coment la fine est original de ceo pleè, quel nest pas suy ceynz, et en taunt nest pas pleyn recorde maunde ; par quei nentendoms pas qe avant qe vous eiez pleyn recorde voillez al examinement des erreurs aler.—*Skip*. Nous ne sumes pas a reverser la fine mes le jugement en le *Scire facias* ; et quanqest parcel de icele est entre en roulle quel est maunde.—*Grene*. En Fourme de doun en remeindre, si especialte soit mys avant, il covient qil soit enroulle, et sil soit a reverser il covent qil soit fait venir come parcelle del recorde ; et auxi, si la lei soit tiele qil ne dust pas aver son age, mesqils errerent de ceo qils agarderent execucion la ou il dust aver este mys a respondre, et par cele cause le jugement a ore soit reverse, et il eit restitution, il serra en mesme le cours de ple come il serra si cel agard ust este fait adonqes, saver a respondre a nostre accion, et ceo ne poet il faire si la fine ou la tenur de icelle [ne] fut ceinz ; par quei.—*Skip*. Quant homme vient a cel point qe nous covient respondre a vostre fine, donqes est ceo temps del faire venir, et avant nent ; et auxi le recorde

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A D. 1346. and, moreover, the record recites the writ of *Scire facias* in which the force of the fine for giving you execution is included; and the tenor of the fine will never be entered in the record in this Court, but the fine will remain on the files, as matter which is not parcel of the record; therefore, &c.—*Grene*. With regard to the same Court what you say is true—it will remain separate from the record on a file; but, as soon as the record is sent out of that Court, whatever is parcel of the record will be sent; and, inasmuch as this fine is the original of the whole, and it has not been sent, judgment.—*R. Thorpe*. We were admitted to defend by reason of the default of K., and then, when the judgment was rendered against us, we at that time first became a party, and were aggrieved, and it is in respect of that judgment that error is assigned; and we have nothing to do with anything which occurred before our admission to defend, and do not assign any default in respect thereof; nor can you assign any default or variance in respect of your own suit on which you recovered. And, moreover, as to that which you say that the Justices have not sent a full record, I say that the full record must be understood to be all that is and remains in their possession; but the fine and the note of it must remain in the possession of the Chief Clerk *inter recorda sine die*, and not in the possession of the Justices. And so it is with respect to a writ of Error sued on a *Præcipe quod reddat*, because the original writ, which remains in the possession of the Chief Clerk, will not be sent into the King's Bench, nor will the judicial writs or the essoins any more; wherefore, &c. On the other hand you have replied as to the errors, saying that the judgment was a good one, and therefore you have passed the time for taking the exception [as to a full record].—*Scor, ad idem*. If the judgment were to be reversed, it

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recite le brief de *Scire facias* deinz quel la force de A.D. 1346.
la fine par vous doner execucion est compris; et la
tenure de la fine ne serra jammes entre en le recorde
en cele Place, mes demura en filas come chose
nient parcelle; par quei, &c.—*Grene*. En mesme la
Place vous ditez verite: il demura severe del record
en filace; mes, quant qe le recorde serra maunde
[hors de cel Place, qanquest parcele del recorde serra
maunde;]¹ et de ceo qe ceo est loriginal de tut, qe
nest pas maunde, jugement.—*R. Thorpe*. Nous fumes
resceu par la defaute de K., et dounques quant le
jugement fut rendu devers nous donques fumes nous
primes partie, et greve, de quel jugement lerrour est
assigne; et de nul rienz qe fut avant nostre receite
navoms qe faire, ne defaute nassignoms; ne vous de
vostre sute demene, sur quei vous recoveristes ne poez
defaute ne variaunce assigner. Et auxi a ceo qe
vous parlez qe lez Justices nount pas maunde, &c.,
jeo dye qe ceo est entendre quanquest et demoert
vers eux; mes la fine et la note deivent demurer
vers le Chief Clerk *inter recorda sine die*, et noun
pas vers les Justices. Et issint est il dun Errour
suy en un *Præcipe quod reddat*, qar le brief original,
qe demoert vers le Chief Clerk, ne serra pas maunde
en baunk le Roi, ne les briefs judiciales nient le
plus, ne les essones; par quei, &c. Dautre part
vous avez replie a les erreurs, parlaunt qe il fut
bon jugement, par quei vous estes passe le chalange.
—*Scor, ad idem*. Si le jugement serra reverse,

¹ The words between brackets are omitted from I.

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A.D. 1346. would still be at the election of Constance to sue a new *Scire facias* in this Court, or in the Common Bench, and, although the fine be not in this Court, still suit by *Scire facias* will be given her in this Court; but, if the fine were in this Court, she would be deprived of suit in the Common Bench, and so her power of suing would be restricted, and that would be contrary to what is right. And even though we were to proceed to examine the errors on the reply that the judgment was a good one, still if afterwards we saw that it was necessary to have the tenor of the fine, we could cause it to come. Therefore say something else, if you have anything else to say, wherefore we should not proceed to the examination of the errors assigned.--*Grene*. By the fine upon which execution was awarded to Constance the remainder was limited to her and to William formerly her husband, and to William's heirs; so according to that recovery which was adjudged for Constance the freehold vested in her, while the fee and the right were with one Richard son and heir of William, without whom she cannot answer, and she prays aid of him.—*R. Thorpe*. Your prayer is made by reason of an estate limited before the erroneous judgment, which judgment is the cause of our present suit, and to which judgment you were yourself a party, and this Richard of whom you speak was altogether a stranger to it; therefore, &c.—*Grene*. The inheritance came to Richard at the same time as that at which the freehold accrued to us by the judgment, and so the cause of our prayer arises out of matter which has occurred since the judgment on which your suit is taken.—But, nevertheless, the prayer was not allowed.—And, before this aid-prayer *Grene* alleged that the land had been recovered by default against Katharine, who was alone party to the original, and was still living, and was aggrieved by

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unquore serra il en le eleccion de Custaunce de A.D. 1346. suyre un *Scire facias* de novel ceinz, ou en Comune Baunk, et, tut ne soit la fyne ycy, unqore la sute li serra done ceinz par le *Scire facias*; mes, si la fyne fut ceinz, la sute serreit tollet en Comune Baunk, et issint serra sa sute restreint, qe serra countre resoun. Et mesqe nous ailloms dexaminer les erreurs, parlaunt qil fut bon jugement, unqore apres si nous veoms qil bosoigne daver la tenour de la fine, nous le ferroms venir.¹ Par quei ditez autre chose, si rienz avez, pur quei nous nirroms al examenement, &c.—*Grene*. Par la fine hors de quel execucion fut [Fitz., Aide, 29.] agarde a Custaunce le remeindre fut taille a luy et a William jadis soun baron, et as heirs William; issint par cel recoverir qe se tailla pur C. frank tenement se vesti en luy, et le fee et dreit a un Richard fitz et heir W., saunz qi ele ne poet respondre, et prie eide de luy.—*R. Thorpe*.² Vostre priere est par cause dun estat taille avant le jugement erroigne, quel jugement est cause de nostre sute a ore, a quel jugement vous mesmes futes partie, et celi R. de qi vous parlez a ceo tut estraunge; par quei.—*Grene*. Lenheritement avynt a R. a mesme le temps qe le frank tenement nous acrust par le jugement, et issi est la cause de nostre priere par chose avenü puis le jugement dount vostre sute est pris.—*Et tamen non allocatur*.—Mes, avant ceste eide priere, *Grene* alleggea qe la terre fut recoveri vers Katherine par defaute, qe soulement estoit partie al original, qest unqore en vie et greve par le jugement rendu

¹ H., Venier.| ² I., Richem.

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A.D. 1346. the judgment given on default, in respect of which an action is given to her by statute¹; and (said *Grene*) even though the statute¹ gives you admission to defend your right, still by that statute no suit is given of such a kind that judgment rendered against another can be annulled, and he can be put back in possession, when admission of another kind is given to him as above; therefore, &c.—W. THORPE. Which is your meaning—that he will not have any suit while Katharine is living, or that he will have suit, but that execution for him will be stayed until after the death of Katharine, who lost and was able to lose the freehold for her life?—*Grene*. That he will not have any suit while Katharine is living, because he is not yet aggrieved, but Katharine only is aggrieved, and to her suit is now given, and a release to her bars Philip for the life of Katharine.—W. THORPE to *Grene*. Will you say anything else wherefore we should not proceed to examine the errors?—And *Grene* said nothing more.—And, because the Court had so often asked, and they were only being delayed for a length of time, W. THORPE, therefore, said that they would not so ask the party anything more, but that they would examine the errors in respect of which the judge who rendered the judgment was moved; and he said that with regard to the exceptions which had been taken the Court would weigh them all according to their value, but that the Court desired to bring the business to a conclusion.—And he gave a day over, &c.

Appeal. (20.) § A man and his wife sued an Appeal against another man and his wife; and the writ was, at the end, in the words:—"et unde" the wife plaintiff "*eam appellat.*" And they counted, by *Rokele*, that the wife who was plaintiff appealed the wife who was

¹ 13 Edw. I. (Westm. 2), c. 3.

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sur defaute, de quei accion est done a luy par A.D. 1346. statut; et mesqe lestatut vous doune la resceite a defendre vostre dreit, unquore par cel estatut tiele sute nest pas done par quel le jugement rendu vers autre serra annulle, et il remys, &c., la ou autre receite lui est done *ut supra*; par quei.—W. THORPE. Le quel est vostre entente, qil navera nulle sute, vivant K., ou qil avera, mes qe execucion demura pur luy tange apres la mort Katerine, qe perdi et poeit perdre le fraunk tenement pur sa vie? —Grene. Qil navera nulle seute, vivant K., qar il nest pas unqore greve, mes K. *tantum*, a qi la sute est ore done a qi relees barre Philipe pur la vie K.—W. THORPE a Grene.¹ Voillez pluis dire pur quei nous nirroms a² les erreurs?—Et il dit nent plus.—Et pur ceo qe la Court avoit issint sovent³ demande, et ils ne furent qe taries longement, par quei W. THORPE dit qe ils ne voleint pluis issint demander de la partie, mes qe ils voleint examiner les erreurs de quei le juge qe rendi le jugement fut mewe; et dit qen dreit de les excepciens qe furent dones qils voleint peiser touz solonc lour values, eins qils voleint terminer la bosoigne.—Et dona jour outre, &c.

(20.)⁴ § Un homme et sa femme suirent un Appel Appel. vers un autre homme et sa femme; et le brief [Fitz., Briefe, 252.] voleit, au fyn, *et unde* la femme⁵ pleintif *eam* *appellat*. Et counterent,⁶ par *Rokele*, qe la femme pleintif⁷ appella la femme le defendant de maheym,

¹ The words a *Grene* are omitted from I.

² I., pur.

³ sovent is omitted from I.

⁴ From H., and I.

⁵ femme is omitted from I.

⁶ H., counta.

⁷ pleintif is omitted from I.

Nos. 21-23.

A.D. 1346. defendant of maihem, to wit, of her right thumb cut off, &c.—*R. Thorpe*. Judgment of the writ: for you see plainly how the husband and his wife sue the writ, and they have framed the Appeal for the wife, omitting the husband, and also they have appealed the wife alone as defendant, without supposing any tort in the husband; judgment.—*Rokele*. Since we have supposed the maihem on behalf of the wife alone, we understand that the Appeal should be framed on her behalf alone; judgment.—*W. THORPE*. A tort committed against a woman before she is covert baron is supposed to be committed against her alone, but when committed afterwards against both of them, and so also with respect to the defendants, and therefore take nothing by your writ.

Trespass. (21.) § A writ of Trespass was brought. The Sheriff returned that the defendant had nothing, but that he was a clerk beneficed in the bishopric of L. The plaintiff had the *Cape* without sending to the Bishop of L.

Voucher. (22.) § A tenant vouched himself for the reason that his father gave the land to him in tail, and his father was dead, and in order to save the estate tail he vouched himself as heir of the donor. The demandant demanded judgment, since the tenant did not produce any specialty to show the form of the gift, whether he should be admitted to vouch himself without showing a specialty. Afterwards the tenant waived the voucher.

Attaint. (23.) § Robert Hovel sued an Attaint. The Sheriff returned the writ as having been received too late, and therefore he sued an *Alias* writ, and the defendant sued another *Alias* writ. And the Sheriff returned the one *Alias* writ as having been received too late, and the other as having been served, and returned a panel.—*R. Thorpe*. We say, on behalf of Robert,

Nos. 21-23.

saver, de son pouce destre coupe, &c.—[R.] *Thorpe*. A.D. 1346.
 Jugement du brief: qar vous veiez bien coment le baroun et sa femme siwent le brief, et ils ount fourme lappel pur la femme, entrelessaunt le baroun, et auxint soulement [appelle le femme le defendant, saunz supposer tort en le baroun; jugement.—*Rokele*. Puisque nous avoms]¹ suppose le mahey² soulement³ pur la femme, nous entendoms pur luy serra soulement lappel fourme; jugement.—W.⁴ *THORPE*. Tort⁵ fait⁶ a la femme avant la couverture le baroun le suppose a lui soulement fait, mes puis a eux deux, et auxi de la part de les defendauntz, par quei ne preignez riens par vostre brief.

(21.)⁷ § Trespas porte. Le Vicounte retourna qe le Trespas. defendant navoit rienz, mes fut clerc benefice in *Episcopatu de L*. Le pleintif avoit le *Cape* saunz maunder al Evesqe de L.

(22.)⁷ § Le tenant voucha luy mesme par cause qe Voucher. soun pere dona la terre a luy en la taille, et soun pere est mort, et pur sauver la taille voucha luy mesme come heir le donour. Le demandant demanda jugement, del heure qil ne moustre pas especialte de la fourme, si a voucher luy mesme saunz especialte serra resceu. Puis il weyva le voucher.

(23.)⁷ § Robert Hovel suyst une Atteynte.⁸ Le Atteinte. Vicounte retourna le brief *tarde*, par quei il suist un [Fitz., Atteint, *Sicut alias*, et le defendant suyst un altre *Sicut alias*.⁴²] Et le Vicounte retourna lun⁹ *Sicut alias* *tarde*, et lautre il servi, et retourna panel.—[R.] *Thorpe*. Nous dioms pur R. qe le brief qest servy est suy

¹ The words between brackets are omitted from I.

² I., mayn.

³ Soulement is omitted from I.

⁴ W. is omitted from H.

⁵ H., De trespass.

⁶ fait is omitted from I.

⁷ From H., and I.

⁸ H., *Venire facias* in different ink after erasure.

⁹ lun is omitted from I.

No. 24.

A.D. 1346. that the writ which has been served was sued on behalf of the defendant, and that the knights who are impanelled are his relations, and we disavow the suing of that writ; and, inasmuch as the Sheriff has returned our writ as having been received too late, we pray a *Pluries* writ.—And he had it, because the defendant had not yet a day in Court by reason of the non-serving of the writ, &c.

Trespass. (24.) § In the Exchequer a yeoman of one of the Barons sued a writ of Trespass for battery.—*R. Thorpe*. Judgment of the writ: for, if the plaintiff were nonsuited, he and the pledges to prosecute would be amerced, and according to the writ there are no pledges found to prosecute; judgment.—*Skipwith*. The custom of this Court is that no pledge shall be found for the Barons or for their servants.—For that reason, as to that point, the writ was adjudged good.—*Grene*. Again judgment of the writ: for the writ supposes the plaintiff to be the yeoman of one of the Barons; and he might be the Baron's yeoman, and not his servant; and you ought not to hold plea in this Court unless he be of the Baron's household, and, inasmuch as the writ does not make him the Baron's servant, judgment.—*Skipwith*. We suppose that he is the Baron's yeoman, which will be understood to be the Baron's servant, unless the reverse is pleaded; and, inasmuch as you do not deny it, and allege nothing else in fact which would disprove our action, judgment.—Therefore they caused to be read the statute relating to this franchise, which purported that King Henry III. had granted to the Barons that trespasses committed against them and their men should be determined in the Exchequer before them; and for that reason the defendants were put to answer over.—Therefore *Grene* said Not Guilty.—And the other side said the contrary.

No. 24.

pur le defendant, et ceux qe sont enpaneles sount cosyns,¹ A.D. 1346. quel sute² nous desavowoms; et de ceo qe le Vicounte ad retourne nostre brief *tarde* nous prioms *Sicut pluries*. —Et il lavoit pur ceo qe le defendant navoit pas unquore jour en Court par le nounservir de brief, &c.

(24.)³ § En Lescheqier un vadlet dun des Barons ^{Trans.} suyst brief de Trans de batre.—[*R.*] *Thorpe*. Jugement ^{[Fitz., Privilege,} de brief: qar, si le pleintif fut nounsuy, il et les plegges^{3.]} serront amerciez, et par le brief ne sount pas plegges trovez a suir; jugement.—*Skyp*. Le usage de ceste place est qe nulle plegge serra⁴ trove pur eux ne pur lour servauntz.—Par quei, quant a cel, le brief fut agarde bon.—*Grene*. Unquore jugement de brief: qar le brief lui suppose vadlet un des Barons; et il put estre vadlet, et nient son servaunt; et ceinz vous ne devetz tenir plee sil ne soit servaunt de soun maynpast, et de ceo qe le brief ne luy fait pas son⁵ servaunt, jugement.—*Skip*. Nous supposoms qil est⁶ vadlet, quel serra entendu son servaunt, si le revers ne soit plede; et, de ceo qe vous ne dedites pas, et autre rienz alleggez en fait quel desproveroit nostre accion, jugement.—Par quei ils fesoint lire lestatut de cele fraunchise, qe voleit qe le Roi H. les avoit graunte qe des trespas faites a eux et a lour hommes serra termine en Leschequer devant eux: et par cele cause ils furent mys outre.—Par quei il dit de riens coupable.—*Et alii e contra*.⁷

¹ H., noz cosyns.

² sute is omitted from I.

³ From H., and I., but compared with the Plea Roll, Exchequer of Pleas, 20 Edward III. "Adhuc de Crastino Paschæ anno xx°." There is a pencil numbering of the skin "36," but this is no part of the original Exchequer record. The action was brought by Ralph de Tyderlegh, "valletto Alani de Esshe, Baronis hujus Scaccarii,"

against Walter, Abbot of Glastonbury, William Wulmyngtone "commonachus ejusdem Abbatis," and twenty-three others, who were to answer together with "Johanne Bolt de Glastonia."

⁴ serra is omitted from I.

⁵ son is omitted from I.

⁶ I., soit.

⁷ The pleas in abatement of the writ and the reading of the "statute" are not mentioned in

No. 25.

A.D. 1346. (25.) § A woman recovered by a writ of Dower, in
Scire a Court of Ancient Demesne, against Herbert de St.
facias Quintin, by reason whereof Herbert sued a writ of False
Judgment, with the result that the judgment given
in the Court of Ancient Demesne was reversed. And,
because the woman had held the land for two years
between the first judgment and the reversal of it,
enquiry was made as to the yearly value of the
tenements, and their value for the two years was
assessed at twenty marks. Therefore judgment was
given that Herbert should recover the issues of the
land in the meantime, to wit, the twenty marks. And
now Herbert sued a *Scire facias*, in respect of the
twenty marks against the same woman.—*Richemunde*.
You ought not to have execution, for we tell you
that we ourselves brought a writ of Right against you
in the Court of Ancient Demesne, and made protesta-
tion that our suit was in the nature of a *Cui in vita*;
process was continued until we recovered by action
tried, and that in respect of an alienation made by
our husband a long time before that judgment was
rendered of which you think to have execution; and
we do not understand, since we have recovered the
principal matter in virtue of a right of earlier date
than your recovery is, that you ought to have
execution of the issues of the same land by reason
of a judgment given in the meantime.—*Seton*. You
see plainly how he pleads in bar a recovery on a
writ in a Court of Ancient Demesne, which is not of
record in this Court, and therefore we have no need
to answer to that which he has said. And, moreover,
it is supposed by our writ that she recovered the
same land against us by a writ of Dower by reason
of the endowment of the same husband in respect of

No. 25.

(25.)¹ § Une femme recoverist par un brief de A.D. 1346.
 Dowere, en aunciene demene, vers Herberd de Seynt Quintyn, par quei Herberd suyst un brief de faux jugement, issi qe le jugement fut reverse. Et, pur ceo qe la femme avoit tenu la terre par ij aunz entre le primer jugement et le reverser, fut enquis la value des tenementz par an, et taxe les ij aunz a xx. marcs. Par quei agarde fut qe H. recoverast les issues de la terre en le mesme temps, saver, les xx. marcs. Et ore H. suist un *Scire facias* de les xx. marcs vers mesme la femme.—*Rich.* Vous ne devez execucion aver, qar nous vous dioms qe nous mesmes portames un brief de Dreit vers vous en la Court del auncien demene, et feismes protestacion a suir en nature de *Cui in vita*; proces continue tanqe nous recoverimes par accion trie, et ceo dune alienacion faite par nostre baron longe temps avant le jugement rendu de quel vous bietz aver execucion; et nentendoms pas qe pus qe nous avoms recoveri le principal dun droit eysne qe vostre recoverir nest qe de les issues de mesme la terre par jugement taille en le mesme temps devez execucion aver.—*Setone.* Vous veietz bien² coment il plede en barre par recoverir dun brief en aunciene demene, quel nest pas de record ceins, par quei a ceo qil ad dit nous navoms mester a respondre. Et auxi par nostre brief est suppose qe ele recoverist vers nous mesme la terre par brief de Dowere del dowement mesme le baron de qi

the roll. There "Radulphus dicit "quod prædictus Abbas et alii "prænominati simul cum prædicto "Johanne Bolt versus quem "narraret, si, &c., "vi et armis in ipsum Radulphum "insultum fecerunt, ipsumque "verberaverunt et male tracta- "verunt," &c. "Et prædictus Abbas et alii "præscripti dicunt	"quod de transgressione prædicta "in nullo sunt culpabiles." Issue was joined on this plea of Not Guilty, and the <i>Venire</i> was awarded, but nothing further appears on the roll, except adjournments. ¹ From H., and I., until otherwise stated. ² The marginal note in I. is Dowere. ³ bien is omitted from H.
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No. 25.

A.D. 1346. whose alienation she supposes herself to have recovered by a *Cui in vita*, while the recovery by writ of Dower is not denied by her. Therefore she shall not be admitted to allege a recovery by *Cui in vita*, which is contrary to the recovery by writ of Dower.—But *Seton* did not dare to abide judgment on that point, and therefore he demanded judgment (inasmuch as she had confessed the judgment given against herself by which the issues were severed from the principal matter as damages, by which judgment the defendant's person was charged in respect thereof as in respect of a debt) whether he should be barred by any recovery of the land which had no relation to that for which he was then suing.—*Skipwith*. And we demand judgment, since you had judgment to recover the issues, &c., because you ought to have held the land all this time, and you have confessed that we recovered it against yourself in virtue of a right existing before the time at which your judgment was delivered, and we recovered no damages against you by our writ, and so it is proved that in law our tenancy continued during this time in respect of which you expect to have the issues, and therefore you ought not to have execution against us who are so in possession in virtue of an earlier right; and if we have no other land than the land which we recovered, it would not be right that you should have an *Elegit* in respect of that land; and, since you do not surmise that we are seised of any other land, we demand judgment whether you ought to have execution. — HILLARY. Since you have not denied the judgment given against yourself in respect of these issues as in respect of damages, and your recovery which you allege has no relation to them, we therefore give judgment that he do have execution, &c.

No. 25.

lalienacion ele¹ parle qel dust aver recoveri par *Cui* A.D. 1346.
in vita, quel recoverir par brief de Dowere nest pas
dedit de luy. Par quei dallegger un recoverir par
le *Cui in vita*, qe est a contrare de cele ele ne serra
pas resceu.—Mes il nosa pas sur cele demurer, par
quei il demanda jugement, del houre qe el² avoit
conu le jugement taille vers luy mesme par quel
les issues furent severetz del principal come damages,
par quel jugement la persone le defendant fut
charge de cele come dune dette, si par nule
recoverir de la terre quele ne refiert pas a ceo
dout nous siwoms ore si, &c.—*Skip*. Et nous
demandoms jugement, puis qe vous avietz³ jugement
de recoverir les issues, &c., pur⁴ ceo qe vous
duissetz aver tenu la terre tut cel temps, et avetz
conu qe nous lavoms recoveri vers vous mesmes
dun dreit eisne qe vostre jugement ne se fist, et
par nostre brief nous recoverimes nuls damages vers
vous, et issint est il prove nostre tenance en lei
continue de cel temps de quel vous bietz aver les
issues, par quei vers nous qe issi sumes eins dun
droit de plus haut ne devetz execucion aver; et, si
nous neyoms autre terre qe la terre quel nous
recoverimes, il ne serra reson qe vous ussetz le
Elegit de cele terre; et depuis qe vous ne surmettez
pas qe nous sumes seisi dautre nous demandoms
jugement si, &c.—*HILL*. Puis qe vous navetz pas
dedit le jugement taille vers vous mesmes de cele
come de damages, et vostre recoverir quel vous
alleggez ne refiert pas a cele, par quei nous
agardoms qil eit execucion, &c.

¹ I., dout ele.² H., qil, instead of qe el.³ H., avetz.⁴ I., et pur.

No. 25.

A.D. 1346. § Herbert St. Quintin sued execution of twenty marks,
 Execution. against a woman, which were awarded to him on a writ of False Judgment rendered on a writ of Dower in his Court of Cookham.—*Skipwith*. You ought not to have execution, because we tell you that we brought a little writ of Right in the nature of a *Cui in vita* in respect of the same tenements on the ground of a conveyance made by our husband at an earlier time than that of the judgment of reversal or that of the judgment on the writ of Dower. Process thereon was continued until we recovered by action tried. And we demand judgment whether you ought to have execution against us, who are in possession in virtue of an earlier right, by reason of any judgment given in the time mean between our title and our recovery.—*Seton*. You see plainly how he alleges a judgment given in a Court of Ancient Demesne, which is not affirmed in this court by record, and therefore the law does not put us to answer to it.—This exception was not allowed, because the point was touched that this matter could be the subject of an averment to the country.—*Seton*. You see plainly how he alleges a recovery on a *Cui in vita*, which action would be contrary to his recovery on the writ of Dower, and therefore the law does not put us to answer to it.—This exception was not allowed, because such a plea, if it could have any value, ought to have been pleaded in the *Cui in vita*.—*Seton*. You see plainly that we do not demand execution of the land, but of damages recovered, which sound in the nature of debt, and are severed from the land, and therefore, even if there was any such judgment, which we do not admit, it could not oust us from execution of the damages, and therefore we demand judgment.—*Skipwith*. Then it is as we say; and we demand judgment, since you have confessed that we are in possession of the land by an earlier title, whether [you ought to have execution] in respect of damages which were awarded against us in lieu of the

No. 25.

§ Herbert¹ Seint Quintyn suyt execucion de xx marc, vers une femme, qe luy furent agardes en une brief de Faux Jugement rendu en un brief de Dowere en sa Court de Cokham.³—*Skip*. Execucion ne devetz aver, qar nous vous dioms qe nous portames un petit brief de Dreit en nature de *Cui in vita* de mesmes les tenementz dun lees fait par nostre baron de plus haut qe ne fuit cel jugement de reverser ou le jugement en le brief de Dowere. Proces continue tanqe nous recoverimes par accion trie. Et demandoms jugement si devers nous, qe sumes einz de dreit plus haut, par nulle jugement taille en le mene temps entre nostre title et nostre recoverir devetz execucion aver.—*Setone*. Vous veietz bien coment il allegge un jugement taille en auncien demene, quel nest pas afferme ceinz par recorde, par qai a cella ley ne nous mette pas a respoudre.—*Non allocatur*, qar fuit touche qe cele⁴ chose purreit estre avere par pays.—*Setone*. Vous veietz bien coment il allegge un recoverir sur *Cui in vita*, quele accion serreit a countre de soun recoverir el brief de Dowere, par quei a cella ley ne nous mette pas a respoudre.—*Non allocatur*, qar tiel ple, sil purreit aver value, le deveroit aver plede el *Cui in vita*.—*Setone*. Vous veietz bien coment nous ne demandoms pas execucion de la terre,⁵ mes des damages recoveris, qe sount en nature de dette, et sount severetz de la terre, par qai, tut y avoit il tiel jugement, come nous ne conissoms pas, ceo ne nous poet pas ouster dexecucion des damages, par qai nous demandoms jugement.—*Skip*. Donques est il issint; et nous demandoms jugement, del houre qe vous avietz conu qe nous sumes einz en la terre par title de plus haut, si des damages queux nous furent agardes

A.D. 1346.

Execu-
cion.²

¹ This report of the case is from L. and C.

² The marginal note is from L. alone.

³ L., Eckham.

⁴ C., tiel.

⁵ The words de la terre are omitted from C.

No. 26.

A.D. 1346. issues of the land, in respect of which land, if you were now to be put to your action by way of writ of False Judgment, we should bar you by means of the recovery, and consequently you could not have execution against us in respect of the issues of the same land, because that would be to charge the land at an earlier time by a judgment of a later time, which could not be.—HILLARY. This land is no more chargeable than other land, but you are yourself personally charged by the judgment.—And afterwards SHARSHULLE awarded execution.

Darrein
Present
ment.

(26.) § Assise of Darrein Presentment. The plaintiff made his declaration to the effect that he was seised of the manor to which the advowson was appendant, and presented, and that afterwards the church became void, and therefore the Bishop of Salisbury, as Ordinary, provided, by reason of the period of six months having passed, in right of the plaintiff.—*Derworthy*. Judgment of the declaration, because in an Assise of Darrein Presentment, the

No. 26.

en lieu des issues de la terre, de quel terre, si A.D. 1346.
vous fuissetz a ore a vostre accion par brief de
Faux Jugement, nous vous forclorrons par my le
recoverir, et *per consequens* devers nous vous ne
poietz aver execucion des issues de mesme la terre,¹
qar ceo serreit a charger la terre de plus haut par
un jugement de plus bas,² qe ne poet estre.—HILL.
Ceste terre nest nient plus chargeable qautre terre,
mes vous mesmes estes charge par le jugement.—
Et puis SCHAR. agarda l'execucion.

(26.)³ § Assise de Drein Presentement. Le pleintif Drein
fit sa demoustrance qil fut seisi del maner a qi Presente-
ment.
lavowesoun, &c., et presenta, et apres la eglise se [Fitz.,
Darrein
Present-
ment, 12.]
voida, par quei Levesque de S.,⁴ come Ordiner, pur-
veust,⁵ pur le temps passe, en nostre dreit.⁶—Der.⁷
Jugement de la demoustraunce, qar en Assise de

¹ The words la terre are omitted from C.

² L., haut.

³ From H., and I., but corrected by the record, *Placita de Banco*, Easter, 20 Edw. III., R^o 2, d. It there appears that the Assise was brought by Eleanor, late wife of Robert de Colbere, against Reginald atte Walle, in respect of the advowson of the church of Bouclond (Buckland) by Melcombe Regis (Dorset).

⁴ MSS. of Y.B., L.

⁵ I., presenta.

⁶ The declaration was, according to the record, "quod ipsamet fuit seisisita de manerio de Bouclond juxta Melcombe Regis, cum pertinentiis, ad quod advocatio ecclesie prædictæ pertinet . . . et præsentavit ad eandem quendam Johannem Lauerans de Crekkelade, clericum suum, qui ad præsentationem suam

"fuit admissus et institutus . . .

"Et, vacante ecclesia illa per

"mortem ejusdem Johannis Laue-

"rans, contentio mota fuit inter

"ipsam Alianoram et quendam

"Ricardum de Manstone, militem,

"super præsentatione ad eandem,

"durante qua contentione inter

"eos tempus semestre lababatur

"[sic], per quod Episcopus Sarum,

"loci illius diocesanus, contulit

"ecclesiam illam, jure sibi devo-

"luto, cuidam Roberto de Hurle,

"clerico suo, ut in jure ipsius

"Alianoræ, et eum induxit in

"eadem, . . . per cujus

"mortem prædicta ecclesia modo

"vacat. Et dicit quod ipsa Alia-

"nora seisisita est de manerio

"prædicto ad quod, &c., per quod

"ad ipsam pertinet ad ecclesiam

"illam præsentare, &c., unde petit

"assisam, &c."

⁷ H., *Hamound*. This was *Der-worthy's* Christian name.

No. 26.

A.D. 1346. plaintiff will commence with the last presentation, and will allege other presentations previous to that, going upwards, and here he has alleged the presentations coming downwards, as he would do in a *Quare impedit*; judgment.—*Huse*. The matter of our declaration proves that we cannot do as you say: for to commence with the provision of the Ordinary, without showing how that was in our right by a presentation previously made, would not be in due form; therefore it is necessary to commence higher up than at the last presentation.—And the declaration was adjudged good.—*Derworthy*. Still, judgment of the writ: for, in case any one other than himself or his ancestor presented the last parson, he would have a *Quare impedit*, and not a Darrein Presentment.—*Grene*. If my guardian presents, I shall have a Darrein Presentment, so also in this case.—And afterwards the writ was adjudged good.—*Skipwith*. We tell you that the person whom he supposes himself to have presented was not admitted or instituted on his presentation; judgment.—*Grene*. Sir, you see plainly how this writ is taken on the last presentation which we have supposed to have been made by the Ordinary in our right, to which presentation he has answered nothing; judgment whether we have any need to answer to that which he has said; and we pray the assise.—*SHARSHULLE*. This is an Assise of Darrein Presentment, in which even though the party say nothing you will still have the assise; and that which he has pleaded is a traverse of your declaration, against which you need not make any replication any more than in an Assise of Novel Disseisin; if, in that, a party denies the disseisin, the assise will be taken, without any replication having been made thereto.—Therefore the assise was awarded, &c.

No. 26.

Drein Presentement il comensera al drein presente. A.D. 1346.
 ment, et alleggera autres presentements devant cele
 en mountaunt, et issi ad allegge les presentements
 en descendaunt, com il freit en un *Quare impedit*;
 jugement.—*Huse*.¹ La matere de nostre demoustrance
 prove qe nous nel poms faire come vous parlez :
 qar a comencer al proveaunce Lordiner, saunz
 moustrer coment ceo fut en nostre dreit par presente-
 ment fait avant, ne serra pas formele; par quei il
 covent de comencer plus haut qe al drein presente-
 ment.—Et la demoustraunce fut agarde bone.—*Der*.
 Unquore, jugement de brief: qar, en cas qe autre
 presenta qe luy mesme ou soun auncestre la drein
 persone, il avereit *Quare impedit*, et ne mye Drein
 Presentement. — *Grene*. Si mon gardein presente,
 javeray Drein Presentement, auxi icy.—Et puis le
 brief fut agarde bon.—*Skip*. Nous vous dioms qe
 celi qil suppose qe dust aver presente ne fut pas
 resceu ne institut, &c., a soun presentement; juge-
 ment.²—*Grenc*. Sire, vous veietz bien coment cesti
 brief est pris del drein presentement quel nous
 avoms suppose estre fait par Lordiner en nostre
 dreit, a quel presentement il nad riens respondu;
 jugement si a ceo qil ad dit eyoms mester a respondre;
 et prioms lassise.—*SCHARS*. Cest un Assise de Drein
 Presentement en quel mesqe partie die riens vous
 avez³ mes⁴ lassise; et ceo qil ad plede est a travers
 de vostre demoustrance, countre quel il ne covient pas
 qe vous replietz nent plus qen Assise de Novele Dis-
 seisine; sil dedit la disseisine homme prendra lassise
 saunz replier a cele.—Par quei lassise fut agarde, &c.⁵

¹ I., *Husee*.

² The plea was, according to the record, "quod prædictus Johannes
 "Lauerans de Crekkelade non fuit
 "admissus et institutus in ecclesia
 "prædicta ad præsentationem præ-
 "dictæ Alianoræ sicut eadem

"Alianora in demonstratione sua
 "supponit. Et de hoc ponit se
 "super assisam."

³ I., naveretz.

⁴ I., mye.

⁵ According to the roll issue was
 joined upon the plea, and the assise

No. 27.

A.D. 1346. (27.) § One J.¹ sued a writ for himself and for the
Trespass: King against W. de R.,¹ Commissary of the Bishop
Contempt. of Norwich, on the ground that the Bishop made
divers summonses to the Abbot of Bury St. Edmund's,
who is exempt from all jurisdiction of the Ordinary
in virtue of the charters of the King's progenitors,
to appear before him, and thereupon our Lord the
King sent his Prohibition by J.,¹ the plaintiff, to the
Bishop and to W.¹ his Commissary, directing them
not to intermeddle, &c., and the Bishop did nothing
in obedience to that writ, and afterwards they
denounced J. as being excommunicated, whereas he

¹ For the real names *see* p. 215, note 1.

No. 27.

(27.)¹ § Un J. suyst un brief pur luy et pur le Roy vers W. de R., Commissare Levesqe de Norwiz, de ceo qe Levesqe fist divers somons al Abbe de E., qest exempte de chesqun jurisdiction Dordiner par les chartres les progenitours le Roi, destre devant luy, ou nostre seigneur le Roi maunda sa prohibicion par J., qest pleintif, al Evesqe et a W. son Commissare qe mes ne entremeissent, &c., pur quel brief il ne fist rienz, et puis denuncierent J.

A.D. 1346.

Trespas :
Contempt.
[Fitz.,
Excommen-
gement,
9.]

was awarded. "Ideo capiatur
" assisa. Sed ponitur in respectum
" hic usque in Crastino Ascensionis
" Domini pro defectu recognitorum,
" quia nullus venit."

A verdict was subsequently
given "quod prædictus Johannes
" Lauersans de Crekkelade fuit
" admissus et institutus in ecclesia
" prædicta ad præsentationem præ-
" fatæ Alianoræ, sicut eadem Ali-
" nora supponit. Quæsi si tem-
" pus semestre jamdum transiit,
" &c., dicunt quod tempus semestre
" nondum transiit, &c. Quæsi
" quantum prædicta ecclesia valet
" per annum dicunt quod valet per
" annum, secundum verum valo-
" rem ejusdem, decem libras."

Judgment was then given "quod
" prædicta Alianora recuperet præ-
" sentationem suam ad ecclesiam
" prædictam, et damna sua centum
" solidorum, videlicet medietatem
" valoris ecclesiæ prædictæ unius
" anni, eo quod tempus semestre
" nondum labitur, &c. Et habeat
" breve Episcopo Sarum loci illius
" Diocesano, &c."

¹ From H., and I., until otherwise
stated, but corrected by the record,
Placita de Banco, Easter, 20
Edw. III., R^o 73. The record
commences as follows:—"Suff.
" Simon filius Nigelli Theobaud, de
" Sudbury, et Jacobus persona

"ecclesiæ de Wrabbenase, Com-
" missarii Episcopi Norwicensis,
" attachiati fuerunt ad responden-
" dum tam domino Regi quam
" Ricardo Freiselle de placito quare,
" cum dominus Rex nuper quoddam
" breve suum de Prohibitione, una
" cum alio brevi domini Regis sub
" privato sigillo suo præfato Ricardo
" fecisset liberari, eidem Episcopo
" vel ejus commissario deferendum,
" et idem Ricardus brevia illa, de
" mandato domini Regis. præfato
" Episcopo liberasset, prædicti
" Simon et Jacobus, simul cum
" Hamone Belers, Simone Priore
" ecclesiæ Trinitatis Norwici, et
" Fratre Petro de Donewico, com-
" monacho ejusdem Prioris, et
" Johanne Priore de Kersey, Com-
" missariis prædicti Episcopi, ipsum
" Ricardum, causa liberationis
" brevium prædictorum, excom-
" municarunt, et ipsum excommuni-
" catum fore publice denuntiarunt,
" in Regis contemptum, et ipsius
" Ricardi grave damnum."

A like action was brought against
the above-named John, Prior of
Kersey, in Michaelmas Term in
the same year, some of the plead-
ings, &c., in which are, *mutatis*
mutandis, the same as in this, and
have been used for correction where
the roll of this Easter Term is
defective.

No. 27.

A.D. 1346. was the King's messenger, and this tortiously, and in contempt of the King and of his commands, and to the damage of J.—*Moubray* defended, and said that J. should not be answered because he was excommunicated. And he made *profert* of the same Bishop's letter of excommunication.—*Grene*.

No. 27.

escomenge, la ou il fut messenger le Roi, a tort, et ^{A.D. 1346.}
 en despit le Roi et de ses maundementz, et as
 damages J., &c.¹—*Moubray* defendi, et dit qe il ne
 serra pas respondu, qar il est escomenge. Et mist
 avant la lettre mesme Levesqe.²—*Grene.* Puis

¹ The declaration was, according to the record, "quod, cum dominus Rex nuper quoddam breve suum de Prohibitione, una cum alio brevi domini Regis sub privato sigillo ipsius domini Regis, in quibus brevibus continebatur quod dominus Rex prohibuit Willelmo Episcopo Norwicensi ne quid attemptaret nec faceret, seu per alios attemptari faceret, quod in præjudicium seu adnullationem libertatum seu privilegiorum nuper concessorum per progenitores ipsius domini Regis nunc, et ipsum dominum Regem nunc, et per summos Pontifices Romanæ Curie acceptatorum et confirmatorum Monasterio ubi corpus gloriosi Regis et Martyris Sancti Edmundi jacet humatum, et etiam ne quid faceret seu per alios fieri permetteret quod in præjudicium ipsius domini Regis nunc, seu læsionem coronæ et dignitatis suæ cedere posset, et, si quid per ipsum Episcopum, seu per alios, in præmissis fuisset attemptatum, id sine dilatione faceret revocari et adnullari, prout in prædictis brevibus plenius continebatur, præfato Ricardo fecisset liberari, eidem Episcopo vel ejus Commissario deferendum, et idem Ricardus brevia illa de mandato Regis præfato Episcopo, die Martis in vigilia Sancti Laurentii anno regni domini Regis nunc decimo nono, apud Kersey, in præsentia

"Roberti de Thorndone, et Radulphi de Sheltone, et aliorum, liberavit, prædicti Simon et Jacobus, simul, &c., ipsum Ricardum, causa liberationis brevium prædictorum, excommunicaverunt, apud Kersey et Wykham Broke, die dominica in Festo Sancti Edmundi Regis et Martyris et die dominica tunc proxime sequente anno regni domini Regis nunc supradicto, et ipsum excommunicatum, &c., in Regis contemptum et ipsius Ricardi grave damnum mille librarum. Et hoc prædictus Johannes [de Clone] qui sequitur, &c., paratus est verificare pro domino Rege, &c. Et Ricardus inde producit sectam, &c."

² The plea was, according to the record, "quod prædictus Ricardus Freyselle ad hoc breve seu ad aliquod aliud breve responderi not debet, quia dicunt quod idem Ricardus excommunicatus est. Et proferunt hic literas Willelmi Episcopi Norwicensis patentes in hæc verba:—Venerabilibus et discretis viris dominis Johanni de Stonore et sociis suis Justiciariis de communi Banco domini nostri Regis Angliæ et Franciæ illustris Willelmus permissione divina Norwicensis Episcopus salutem in omnipotenti Salvatore. Discretioni vestræ tenore præsentium intimamus quod Ricardus Freiselle nostræ diocesis, propter manifestam offensam in

No. 27.

A.D. 1346. Since our action is taken on the ground of the excommunication pronounced against us, which you have confessed, and you say nothing else, we pray that you be convicted of contempt, and we pray our damages.—*Skipwith*. It is possible that this excommunication may be for some fact other than that in respect of which your action is taken, and that for that reason you are not in a condition to be answered; and also you have supposed that we denounced you as being excommunicated, and we make *profert* of the Bishop's letter which proves that he has excommunicated you, and so it is a different excommunication from that in respect of which your action is taken, and therefore you are not in a condition to be answered; judgment.—WILLOUGHBY. That which the Bishop certifies by his letter is to be understood to refer to the same excommunication as that denounced by his subordinates, unless the reverse be pleaded; therefore answer over.—Therefore *Skipwith* produced a letter of the Archbishop of Canterbury, which purported that he had found in the Court of Arches that the plaintiff had been excommunicated for divers matters, and therefore the Archbishop denounced him as being excom-

No. 27.

que nostre accion est pris pur lescomengement A.D. 1346.
pronuncie en nous, quel vous avetz conu, et autre
rien ne dites, nous prioms que vous soietz atteint
de contempte, et noz damages.—*Skip*. Il est possible
que cest escomengement soit pur autre fait que cele
de qi vostre accion est pris, et par taunt vous nent
responsible [; et auxi vous avetz suppose que nous
vous denunciames escomenge, et nous mettoms avant
la lettre Levesque que prove qil vous ad escomenge,
et issi autre escomengement que cele de quei vostre
accion est pris, et par taunt vous nent responsible]¹;
jugement.—*WILBY*. Ceo que Levesque certifie par sa
lettre serra entendu de mesme la chose denuncie
par ses suggestz,² si le revers ne soit plede; par
quei dites outre.—Par quei il mist avant lettre del
Ercevesque de Caunterbirs, que voleit qil avoit treve
en les Arches que le pleintif estoit escomenge pur
divers choses, par quei il luy denuncya escomenge.³

"impediendo et violando ecclesi-
"asticam libertatem contractam a
"diu est, fuit et adhuc est
"majoris excommunicationis sen-
"tentia canonice innodatus, et pro
"sic excommunicato palam et
"publice nunciatus. In qua qui-
"dem excommunicationis senten-
"tia indurato animo perseverat,
"claves Sanctæ Matris ecclesiæ
"contemnendo, quæ vobis et
"omnibus quorum interest signifi-
"camus per præsentis sigillo
"nostro patente signatas. Datum
"apud Lambourne vicesimo octavo
"die mensis Aprilis anno domini
"millesimo tricentesimo quadra-
"gesimo sexto et consecrationis
"nostræ tertio."

¹ The words between brackets
are omitted from I.

² I., subgez.

³ Immediately after the letters

patent of the Bishop of Norwich
the roll continues:—"Proferunt
"etiam hic literas Johannis Can-
"tuariensis Archiepiscopi, totius
"Angliæ Primatis, [et Apostolicæ
"sedis legati, in the Michaelmas
"case] patentes in hæc verba:—
"Tenore præsentium nos Johannes
"permissione divina Cantuariensis
"Archiepiscopus, totius Angliæ
"Primas, et apostolicæ sedis
"legatus, notum facimus universis
"quod, inspectis actis Curie
"nostræ de Arcubus Londoniarum,
"invenimus in eis inter cætera
"contineri quod Ricardus Frei-
"selle, alias dictus Fresel, clericus,
"nostræ Cantuariensis provincie
"subditus, propter suas manifestas
"contumacias et offensas multi-
"plices contractas et commissas
"per ipsum, nuper auctoritate
"ordinaria variis majorum ex-

No. 27.

A.D. 1346. municated.—*Grene*. Sir, you see plainly how he previously alleged the letter of the Bishop of Norwich, whose Commissaries the defendants are supposed to be, and it was supposed by our suit that the Bishop had excommunicated us for having delivered the Prohibition, which excommunication could only be understood to be that same excommunication in respect of which our action was taken, and therefore our action was then confessed; therefore they shall not be admitted to say that which they allege. And, moreover, that which the Archbishop testifies he takes from a record of the Court of Arches, and it can only be understood as being for the same cause as that in respect of which our action is taken, unless any other cause is testified in the letter; therefore, &c.—*Skipwith*. Since we have produced the Archbishop's letter which proves you to be excommunicated, and the Archbishop is not supposed by your suit to be a party to the excommunication, judgment.—*STOUFORD*. He has specially supposed by his suit that he was excommunicated and for a particular cause, and the letter of which you make *profert* proves a general excommunication in his person, which general excommunication may include in his person that particular excommunication in respect of which the action is taken, and therefore, since the letter does not assign any other cause of excommunication, it must be understood to be for the same cause for which the action is taken.—Therefore *Skipwith* was

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—*Grene.* Sire, vous veietz bien coment il alleggea A.D. 1346 avant la lettre Levesque de Norwyz, qi commissares ils sount suppose, et¹ par nostre sute fut suppose² qe Levesque nous avoit escomenge pur la prohibicion livere, quel escomengement ne put estre entendu mes mesme celle de quei accion fust pris, et par taunt nostre accion adonques conu; par quei a ceo qils alleggent ne serront resceu. Et auxi ceo qe Lercevesque tesmoigne ceo prent il de recorde des Arches, quel ne put estre entendu mes pur mesme la cause de quei nostre accion est pris, si autre cause en la lettre ne fut tesmoigne; par quei, &c.³

—*Skip.* Puis qe nous avoms moustre la lettre Lercevesque, qe nest pas suppose partie al escomengement par vostre sute, quel vous prove estre escomenge, jugement. — *Strour.* Il ad suppose par sa sute en especial qil fut escomenge et par certeyne cause, et la lettre qe vous mettez avant prove escomengement general en luy, quel general purra comprendre en luy cel especial de quei laccion est pris, par quei, puis qe la lettre ne doune pas autre cause descomengement, il serra entendu par mesme la cause pur quele laccion est pris.—Par quei il fut

"communicationum sententiis ex-
"titit et est damnabiliter innoda-
"tus, et pro sic excommunicato
"publice nunciatus. Vos igitur
"rogamus et oramus [hortamur in
"the Michaelmas case] in domino
"quatenus eundem Ricardum sic
"excommunicatum arcus evitare
"dignemini quousque ad gremium
"Sanctæ Matris ecclesiæ rediens
"absolutionis beneficium in ea
"parte juxta juris exigentiam
"meruerit obtinere. Datum apud
"Lambethe sexto Id. Maii anno
"domini millesimo tricentesimo
"quadagesimo sexto, et nostræ
"translationis tertiodecimo."

The plea then concludes, "unde
"petunt judicium si idem Ricardus
"Freyselle ad hoc breve responderi
"debeat, &c."

¹ et is omitted from I.

² suppose is omitted from I.

³ The replication was, according
to the record, "quod dominus Rex
"et ipse Ricardus prosequuntur
"istam actionem causa excom-
"municationis in ipsum Ricardum
"pronunciata ratione liberationis
"prædictorum brevium domini
"Regis prædicto Episcopo Norwi-
"censi, et in prædictis literis
"excommunicationis per prædictos
"Simonem et Jacobum hic in

No. 27.

A.D. 1346. put to answer over.—*Moubray*. Sir, you see plainly how he takes his action on the ground that we are supposed to have excommunicated him by reason of the delivery of a Prohibition, which matter does not fall under the cognisance of this Court, that is to say, whether he was excommunicated for that cause or for another; and we demand judgment whether in this case you will put us to answer.—*Seton*. And we demand judgment since you have not denied that you excommunicated us by reason of the delivery of the Prohibition, which excommunication cannot be punished by any other suit than one of this nature; therefore we demand judgment, and we pray that you be convicted of contempt, and we pray our

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mys outre.¹—*Moubray*. Sire, vous veietz bien coment A.D. 1346.
il prent saccion qe nous luy duissoms aver escomenge
par cause de la livere dun prohibicion, quel chose
ne chiet pas en conisance de ceste Court, le quel
il fut escomenge par cele cause ou par autre; et
nous demandoms jugement [si en ceo cas vous nous
voilliez mettre a respoudre.² — *Setone*. Et nous
demandoms jugement]³ del houre qe vous navietz
pas dedit qe pur la cause de la livere de la pro-
hibicion vous nous escomengeates, quel escomenge-
ment ne put estre puny par autre sute qe ceo cy
nest; par quei nous demandoms jugement, et prioms
qe vous soietz atteynt de contempt, et noz damages.⁴

“ Curia prælatis non inseritur
“ aliqua causa expressa quare idem
“ Ricardus excommunicari deberet,
“ nec per quem Ordinarium ex-
“ communicatus fuit. Et sic dicunt
“ quod plus intelligibile est quod
“ ista excommunicatio nunc versus
“ ipsum Ricardum allegata sit
“ eadem excommunicatio de qua
“ dominus Rex et idem Ricardus
“ nunc prosequuntur istam actio-
“ nem quam aliqua alia excom-
“ municatio, desicut prædictæ literæ
“ excommunicationis de alia causa
“ excommunicationis nullam faci-
“ unt mentionem, unde petunt
“ judicium si per literas prædictas
“ ab actione repelli debeant. Et
“ petunt quod respondeat, &c.”

¹ According to the roll “ Et quia
“ visum est Curie hic quod, non
“ obstantibus literis prædictis, præ-
“ dictus Ricardus responderi debet,
“ dictum est prædictis Simoni et
“ Jacobo quod respondeant, si,
“ &c.”

² According to the record “ Simon
“ et Jacobus dicunt quod, ubi
“ dominus Rex et prædictus Ri-
“ cardus Freyselle prosequuntur

“ istud breve versus ipsos et alios,
“ supponendo prædictum Ricar-
“ dum Freyselle fore excommuni-
“ catum causa liberationis aliquo-
“ rum brevium domini Regis de
“ Prohibitione prædicto Episcopo
“ Norwicensi, dicunt quod Curia
“ ista in causa istius excommuni-
“ cationis seu alienius alius ex-
“ communicationis cognoscere non
“ potest, quia dicunt quod causa
“ cujuslibet excommunicationis
“ mero jure trianda est sive discu-
“ tienda in foro ecclesiastico, et non
“ in Curia laicali, unde petunt
“ judicium si ad hoc breve respon-
“ dere debeant, &c.”

³ The words between brackets
are omitted from I.

⁴ According to the roll, “ Et
“ Johannes qui sequitur, &c., et
“ Ricardus Freyselle dicunt quod
“ dominus Rex et ipse Ricardus
“ prosequuntur istud breve causa
“ excommunicationis in ipsum
“ Ricardum per prædictos Com-
“ missarios pronunciatæ ratione
“ liberationis prædictorum brevium
“ domini Regis per ipsum Ricardum
“ prædicto Episcopo Norwicensi

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A.D. 1346. damages.—WILLOUGHBY. Will you (the defendants) say anything else?—*Moubray*. It seems to us that the cause of excommunication cannot be known to any one but to the person who pronounces it, and that consequently it is not triable in this Court; therefore, &c.—WILLOUGHBY gave judgment that the plaintiff should recover his damages, without determining whether in accordance with his declaration, or by assessment of the Court, and that the defendants should be taken.—And the defendants prayed that the damages might be assessed.—And WILLOUGHBY said that, inasmuch as the defendants were undefended, the plaintiff would recover damages in accordance with his declaration, but that he desired to consider the point.—But, because the plaintiff did not wish to sue against the others, the damages were not assessed, but otherwise they would have been assessed, and the damages would not have been in accordance with his declaration.—The plaintiff prayed the *Capias*.—And because the King sent his letter to the Justices to stay the taking of the bodies of the

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—WILBY. Voilletz autre chose dire?¹—*Moubray*. Il A.D. 1346. nous semble qe la cause descomengement ne put estre sceu² forqe par celi qe la denuncia, et *per consequens* nent triable ceinz; par quei.—WILBY. agarda qe le pleintif recoverast ses damages, saunz determiner le quel come il avoit counte ou par taxacion de Court, et qils fuissent pris.—Et les defendantz prierent qe les damages furent taxes.—Et WILBY dit qe, par taunt qe ils sont noun defendus, le pleintif recovereit damages come il ad counte, mes il se voleit aviser sur ceo.—Mes pur ceo qe le pleintif voleit suyr vers les autres, les damages ne furent pas taxez, et autrement ils ussent este taxes, et ne mye damages come il avoit counte.³—Le pleintif pria le *Capias*.—Et, pur ceo qe le Roi maunda sa lettre as Justices de surseer de prendre lour corps,⁴

“factæ, quam excommunicationem
“eadem de causa in ipsum
“Ricardum pronunciatam prædicti
“Commissarii non dedicunt, quæ
“quidem excommunicatio est origo
“actionis domini Regis et dicti
“Ricardi, et quam actionem idem
“dominus Rex et dictus Ricardus
“in aliqua Curia nisi in Curia
“domini Regis per legem terræ
“prosequi non debent, unde petunt
“judicium, et quod convincantur
“de contemptu, &c., et de damnis
“pro prædicto Ricardo, &c.”

¹ According to the roll “Quæsitum
“est a præfatis Simone et Jacobo
“si aliquid aliud dicere velint, &c.,
“qui dicunt præcise quod nihil
“aliud dicere volunt nisi id quod
“prius dixerunt, &c.” This precedes,
however, and does not follow the
last pleading on behalf of the King.

² I., conceu.

³ According to the roll “Ideo con-
“sideratum est quod prædicti
“Simon et Jacobus capiuntur pro

“contemptu, &c., et prædictus
“Ricardus recuperet versus eos
“damna, &c. Et, quia Johannes
“qui sequitur, &c., et prædictus
“Ricardus protestantur quod
“sequi volunt versus alios in brevi
“nominatos, taxatio de damnis pro
“prædicto Ricardo versus ipsos
“Simonem et Jacobum respec-
“tuatur usque in Octobas Sanctæ
“Trinitatis, &c.”

⁴ According to the roll the King
sent his writ close to the Justices of
the Bench, dated the 20th of May,
in the 20th year of his reign. After
a recital of the proceedings, it con-
tinues:—“Et quia ob aliquas
“certas causas coram Concilio
“nostro propositas executionem
“dictæ considerationis quo ad ea
“quæ nos concernunt volumus
“usque ad tres septimanas post
“Festum Sancti Michaelis proxime
“futurum differri, vobis mandamus
“quod, si coram vobis taliter sit
“processum, tunc ad capiendum

No. 27.

- A. 1346. defendants the plaintiff could not have the *Capias*, notwithstanding the fact that the defendants would have remained in prison, until they had made satisfaction as to the damages, if the damages had been assessed, &c.

"corpora prædictorum Simonis
 "filii Nigelli et Jacobi, ad sectam
 "nostram, seu ad satisfaciendum
 "nobis de contemptu prædicto,
 "seu alias contra eos proceden-
 "dum, pro eo quod ad nos
 "pertinet in hac parte, nulla-
 "tenus demandetis, nec ipsos
 "molestetis, seu gravetis usque
 "ad tres septimanas supra-
 "dictas. Nolumus tamen juri seu
 "prosecutioni præfati Ricardi in
 "hac parte in his quæ ipsum
 "inde contingunt, prætextu dicti
 "mandati nostri, in aliquo
 "derogari."

The roll continues "virtute
 "cujus brevis datus est dies
 "tam prædicto Johanni qui
 "sequitur, &c., quam prædicto
 "Ricardo per attornatum suum
 "hic usque ad præfatas tres
 "septimanas Sancti Michaelis,
 "&c., et taxatio de damnis
 "respectuatur usque ad præfatum
 "terminum."

The King then sent a writ to the
 Justices to proceed.

"Et sciendum quod termino
 "Michaelis anno regni domini Regis
 "nunc vicesimo, rotulo cccclxxij,
 "prædictus Johannes Prior de
 "Kerseye convictus est tam de
 "contemptu domini Regi in hac
 "parte facto quam de damnis pro
 "prædicto Ricardo mille librarum,
 "et quia idem Ricardus super
 "placito illo protestabatur quod
 "noluit ulterius sequi in placito

"prædicto versus [the three
 "others named in the writ],
 "concessum fuit eidem Ricardo
 "quod haberet executionem de
 "damnis suis prædictis mille
 "librarum tam versus præ-
 "dictos Simonem filium Nigelli
 "et Jacobum, qui super placito
 "isto convicti sunt, quam
 "versus prædictum Priorem de
 "Kerseye qui ad tunc convictus
 "fuit, &c., prout patet termino
 "Michaelis prædicto, rotulo præ-
 "dicto.

"Postea," the rolls continue
 both in this and in Michaelmas
 Term, "ante quindenam Paschæ
 "anno regni domini Regis nunc
 "vicesimo primo dominus, Rex
 "mandavit breve suum Johanni de
 "Stonore, capitali Justiciario hic,
 "quod ipse Recordum et processum
 "inde ad eandem quindenam
 "mittat coram domino Rege
 "ubicumque, &c. Et postmodum
 "idem dominus Rex mandavit
 "Justiciariis hic breve suum sub
 "privato sigillo in hac verba:—
 "Edward par la grace de Dieu Roi
 "Dengleterre et de Fraunce, et
 "seigneur Dirlande, a noz Justices
 "du Bank salutz. Pur ceo qe ceux
 "qe furent envoie de par nous a
 "nostre conseil nadgairs assemble
 "a Loundres nous ont reporte qil
 "semble a mesme le conseil qe les
 "recordez et proces des plees qe
 "sont pris en nostre noun a sute
 "de partie, et dount partie doit

No. 27.

il nel put aver, nient countreasteaunt qils demurerount A.D. 1346.
 en prisone tant qils eient fait gree des damages, si
 les damages furent taxes, &c.

"prendre avauntage, les quels
 "[queux in Michaelmas Term] plees
 "ne touchent nostre heritage,
 "proprement purront bien, a la
 "playnte de partie fesaunte sug-
 "gestioun en nostre Court qe errour
 "est en les ditz recordz et proces,
 "ou en les juggementz ent renduz,
 "estre fait venir devant les Justices
 "de nostre Bank par noz briefs pur
 "amender lerrour sanz attendre
 "parlement, si vous mandons qe
 "vous facetz mander les recordz et
 "proces des plees qe furent devant
 "vous entre nous et Richard
 "Friselle dune part, et Levesqe de
 "Norwiz et ses Comissares dautre
 "part devant noz Justices assignes
 "a tenir les plees devant nous
 "solonc le tenour de nostre bref
 "suth nostre grant seal a vous
 "direct, et solonc la ley de nostre
 "roialme, si mesmes les plees ne
 "touchent nostre propre heritage
 "com de sus est dit. Done [donez
 "in Michaelmas Term] south nostre
 "prive seal devant Caleys le quarte
 "jour Daveril [de Averil in
 "Michaelmas Term] lan de
 "nostre regne Dengleterre
 "vintisme premer et de France
 "oettisme [oytisime in Michael-
 "mas Term].

"Virtute quorum brevium domini
 "Regis Recordum et processus
 "prædicta mittuntur coram
 "domino Rege ubicumque, &c.,
 "per W. de Herlestone, clericum,
 "&c.

"Et, postquam istud irrotula-
 "mentum factum fuit, dominus

"Rex mandavit Justiciariis hic
 "litteras suas sub privato sigillo
 "suo in hæc verba:—Edward par
 "la grace de Dieu Roi Dengleterre
 "et de France, et seigneur Dirlande,
 "as noz chers et foials Johan de
 "Stonore et ses compaignons
 "Justices de nostre comune Baunk
 "saluz. Autrefois vous mandas-
 "mes, et ungore vous mandoms,
 "qe vous facez fournir pleinement
 "et hastivement le juggement
 "done pas vous en nostre comune
 "[comoun in Michaelmas Term]
 "Banc contre William Evesqe de
 "Norwiche et ses Comissaires a la
 "pursuite nostre cher et foial
 "Richard Freselle de ceo qil
 "escomengea le dit Richard en
 "contempt de nous par cause qil
 "livera certains briefs de prohibi-
 "cion souz nostre seal a dit Evesqe,
 "et qe vous facez ent due execu-
 "cion sanz delai solounc la ley et
 "custume de nostre roialme sanz
 "avoir regard au prier, favour, ou
 "maintenance de nullui, et ce ne
 "lessez auxi come vous voilez
 "eschuer nostre indignacion.
 "Done souz nostre prive seal le
 "xvj. jour de Averille. Et ista
 "vobis mitto ut ulterius in negotio
 "prædicto fieri faciatis quod de
 "jure, &c."

The last paragraph is, in Easter
 Term, on a piece of skin sewn
 on to the roll, and the writing is in
 places illegible. The roll of Mich.,
 20 Edw. III. (R^o 472) has, however,
 been used to correct it.

No. 27.

A.D. 1346. § A writ of Contempt was sued against two Contempt. Commissaries of the Bishop of Norwich by Richard Freiselle on the ground that they had denounced the plaintiff as being excommunicated because he delivered to the Bishop the Prohibition of our Lord the King.—*Moubray* denied tort and force, and made *profert* of a letter of the same Bishop of Norwich testifying that the plaintiff was excommunicated, and demanded judgment whether he ought to be answered.—*Thorpe*. This letter proves our action, for it does not prove excommunication for any other cause than we have supposed, because this letter is in general terms, and they have not denied that they are Commissaries of the same Bishop, or that they pronounced the same sentence, as we have surmised against them, and therefore we pray judgment against them as being undefended.—*Moubray*. The Bishop is not a party to that which you have surmised. Until you are in a condition to be answered we have no need to answer, and we demand judgment whether you ought to be answered. And it is not right that by feigning the name of a Commissary you should deprive us of the advantage which the law gives us. And we have seen that Thomas de Heselbeche¹ was, in a like case, not answered with respect to the Commissaries of the Bishop of Bath.—WILLOUGHBY. Judgment was not given in that case.—And afterwards by judgment it was said to *Moubray* that he must answer.—Therefore, on the morrow, he made *profert* of a letter of the Archbishop of Canterbury testifying that the plaintiff was excommunicated for divers contumacies, as he found in the acts of the Court of Arches of London.—*Thorpe*. This letter, like that above, does not prove that the plaintiff is excom-

¹ This name should probably be de Haselshawe was engaged in
 Haselshawe, as there are several disputes with the Bishop of Bath
 previous cases in which a Thomas and Wells.

No. 27.

§ Brief¹ de Contempte suy vers deux Commissares A.D. 1346.
 Levesque de Northwyc² par Richard Friselle de ceo Con-
tempte.
 qils avoint denuncie le pleintif estre escomenge par
 tant qil livera la Prohibicion nostre seignour le Roi
 al Evesque.—*Moubray* defendi tort et force, et mist
 avant lettre de mesme Levesque de Northwyc
 tesmoignant qil est escomenge, et demanda jugement
 sil deveit estre respondu.—*Thorpe*. Ceste lettre prove
 nostre accion, qar ceo ne prove mye escomengement
 par autre cause qe nous navoms suppose, qar ceste³
 lettre est general, et ils nount pas dedit qils ne
 sount Commissares mesme Levesque, ne qils pronun-
 cierent mesme la sentence, com nous les avoms
 surmys, par qai jugement deux⁴ com de nient
 defendutz.—*Moubray*. Levesque nest pas partie a
 ceo qe vous nous avietz surmys. Avant qe vous
 soietz responsable navoms mester a respoudre, et
 demandoms jugement si vous deivetz estre respondu.
 Et nest pas resoun qe par feindre de noun
 de Commissare vous nous tolletz lavantage qe
 ley nous doune. Et nous veimes qe Thomas de
 Heselbeche⁵ eu autiel cas ne fuit pas respondu vers
 les Commissares Levesque de Baaz.—*WILBY*. Ceo cas
 ne fuit pas ajuqe.—Et puis par agarde dit est a
Moubray qil respoigne.—Par qai lendemeyn il mist
 avant la lettre Levesque⁶ de Caunterbirs tesmoignant
 qe le pleintif est escomenge pur divers contumacies
 auxint come il trova en les actes des Arches de
 Loundres.—*Thorpe*. Ceste lettre ne prove pas, comme
 avant, qe le pleintif soit escomenge par autre cause

¹ This report of the case is from
 L., and C.

² C., Northwyke.

³ C., la.

⁴ C., de eux.

⁵ L., Heselweche.

⁶ sic in both MSS.

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A.D. 1346. municated for any particular cause other than for that same cause in respect of which the action is taken, and therefore this letter is no more to the purpose in order to make us not in a condition to be answered than the first; and the Archbishop's letter does not purport that he is supposed to have pronounced any sentence himself, but testifies that he has found this matter.—WILLOUGHBY. Since this letter is in general terms, and does not prove the plaintiff to have been excommunicated for any other cause than is supposed by his suit, we understand this excommunication to be no other than that which the first letter purported; therefore answer.—*Moubray*. You see plainly how he supposes by his suit that he was excommunicated for the production of the Prohibition, whereas this Court cannot take cognisance of or try the cause of excommunication, and we do not understand that you will take cognisance.—*Setone*. And, inasmuch as you have not denied that you excommunicated us by reason of the delivery of the Prohibition, we demand judgment, and we pray our damages, and that you be convicted of the contempt.—*Skipwith*. The cause of excommunication cannot be known, nor consequently can it be tried by averment, and therefore to traverse the cause would not make an issue, nor consequently can you take cognisance.—*Thorpe*. We understand that every one, be he Bishop or any one else, who is the King's liege, ought to be obedient to the King's command, so that if the Prohibition, even if it did not lie, was delivered to him, he ought by reason thereof to stay proceedings until a writ of Consultation came to him; and, inasmuch as he does not deny that which we have surmised, we demand judgment.—WILLOUGHBY. The COURT doth give judgment that the plaintiff do recover his damages, and that the others be taken for the contempt.—And it

No. 27.

especial qe par mesme cele de quele laccion est pris, A.D. 1346. par quei cel brief nest plus a purpos de nous faire noun responsable qe la primere; et si ne voet pas la lettre qe Lercevesqe mesme duist aver pronuncie asque sentence, mes tesmoigne qil ad cele¹ chose trove.—WILBY. Del heure qe ceste lettre est general, et ne prove pas le pleintif estre escomenge par autre cause qe nest suppose par sa suite, nous entendoms cest escomengement par nulle autre qe la primere lettre ne voleit; par qai responez.—Moubray. Vous veietz bien coment il suppose par sa suite qil estoit escomenge pur la moustraunce de la Prohibicion, ou ceste Court ne poet conustre ne trier cause descomengement; et nentendoms pas qe vous volletz conustre.—Setone. Et, desicome vous navetz pas dedit qe par cause de la livere de la Prohibicion vous nous escomengeastes, nous demandoms jugement, et prioms nos damages, et qe vous soietz atteint del contempte.—Skyp. Homme ne poet saver la cause descomengement, *nec per consequens* la trier par averement, par qai de traverser la cause ne freit pas issue, *nec per consequens* vous ne poietz conustre.—Thorpe. Nous entendoms qe chesqun homme, Evesqe ou autre, qest lege homme le Roi, deit estre obeissaunt al comandement le Roi, en tant qe si Prohibicion, tut ne geust ele pas, luy fuit livere, il duist par cause de cele surseer tanqe consultacion luy venist; et desicome il ne dedit pas ceo qe nous luy avoms surmys, nous demandoms jugement.—WILBY. La COURT agarde qe le pleintif recovere ses damages, et les autres soient pris pur le contempte.—

¹ C., tiel.

No. 28.

A.D. 1346. was said that the damages will not be assessed because the defendants are undefended.—WILLOUGHBY. There are others named in the writ; will you sue against them?—*Thorpe*. Yes, and we pray that the damages for which you have given judgment be assessed by you in accordance with our declaration.—WILLOUGHBY. If we assess the damages now, when hereafter the jury comes on an issue joined by the others, it will assess other damages, of which damages you will then have execution—as meaning to say that would be error.—And therefore WILLOUGHBY postponed the matter for further consideration.—And they were adjourned, &c.¹

Note.

(28.) § On the return of the *Sequatur suo periculo* the tenant appeared, and said that the demandant had disseised him since the last continuance, and prayed judgment. And, notwithstanding this, WILLOUGHBY gave judgment that the demandant should recover, &c.

Note.

§ A writ was brought against a husband and his wife. The wife, having been admitted to defend on her husband's default, vouched, and the vouchee made default after default. The wife said that the demandant had entered upon the land demanded, since the last continuance, and was seised, and so had abated

¹ In addition to the case in the Common Bench in the next Michaelmas Term to which reference has already been made (p. 215, note 1), there are other matters among the records which relate to the dispute between the Bishop of Norwich and the Abbot of Bury St. Edmunds. In the *Placita coram Rege* of Michaelmas Term, 19 Edw. III. (R^o 114), it appears that the Bishop had to answer the King in respect of a contempt in citing the Abbot before

him. It was alleged that the Abbot was exempt from the Bishop's jurisdiction (*dominatione*) by reason of certain early charters, and by a "decretum" in the Court of William the Conqueror. It is mentioned as the reason for the exemption that Bury was the place in which St. Edmund was buried. The action went against the Bishop, and the King recovered thirty talents of gold. See also the same roll, R^o 151.

No. 29.

Et fut parle qe damages ne serrount pas taxes pur A.D. 1346. ceo qils sount noun defendutz. — WILBY. Ils y sount autres nomes; voilletz suir vers eux?—*Thorpe*. Oyl, et prioms damages estre taxes solonc ceo qe nous countames par vous¹ agardes.—WILBY. Si nous taxoms ore les damages, enapres, quant lenqueste vendra a myse des autres, lenqueste asserra autres² damages, de quex damages averetz donques execucion, *quasi diceret*, ceo serreit erreur.—Et pur ceo il demura en avys unqore.—*Et adjournantur, &c.*

(28.)³ § Al *Sequatur suo periculo* retourne le tenant *Nota*. vient, et dit qe le demandant luy avoit disseisi puis ^[Fitz., Voucher, 127.] la drein continuance, jugement. Et, *non obstante*, WILBY agarda qe le demandant recoverast, &c.

§ Brief⁴ porte vers le baron et sa femme. La *Nota*.⁵ femme resceu a defendre, &c., voucha, et le vouche fit⁶ defaute apres defaute. La femme dist qe le demandant est entre puis, &c., en la terre demande, et seisi est, et issint abatist soun brief; jugement

¹ C., voz.

² L., les autres.

³ From H., and I., until otherwise stated.

⁴ This report of the case is from L., and C.

⁵ The word *Nota* is omitted from C.

⁶ C., fist.

Nos. 29, 30.

A.D. 1346. his own writ; judgment of the writ.—*Grene*. She has vouched, and so put her answer into the mouth of another, and by the default of the vouchee she is in a position to recover to the value; therefore she has lost her answer, and we pray seisin.—*Seton*. She is a party, because she is not yet warranted, and therefore it is right that she have an answer.—*HILLARY* gave judgment that the demandant should recover against the tenants, and that they should recover against the vouchee to the value.—So observe judgment given in favour of a man who made default, &c.

Note. (29.) § On the return of the *Cape* the tenant answered by attorney, and the warrant of attorney could not be found.—*Grene* prayed that the demandant might be called.—And he could not be before judgment had been rendered, &c.

Mesne. (30.) § A writ of Mesne was brought, and the plaintiff counted that she held of the defendant by fealty and rent, and that the defendant was seised of the services by her hand.—*Moubray*. We say that we have neither fee nor seignory in the land, except a rent seck (and he showed how); ready,

Nos. 29, 80.

du brief.—*Grene*. Ele ad vouche, et mys soun A.D. 1346. respons en autre bouche, et, par sa defaute est de recoverir a la value; par qai ele ad perdu respons, et prioms seisine.—*Setone*. Ele est partie, qar unqore ele nest pas garraunti, par qai il est resoun qele eit le respons.—*HILL*. agarda qe le demandant recoverast, et eux a la value.—*Sic vide judicium pro viro* qe fist¹ defaute, &c.

(29.)² Al *Cape* retourne le tenant respondi par *Nota*. attourne, et son garrant ne put estre trove.—*Grene* pria qe le demandant fut demande.—*Et non potuit* tanqe le jugement fut rendu, &c.

(80.)³ § Brief de Mene porte, et counta qil tient *Mene*. de luy par fealte⁴ et rente, et le defendant seisi des *[Fitz., Mene,* services par sa meyn.⁵—*Moubray*. Nous dioms qe ^{13.]} nōus navoms fee ne seignurie en la terre, sauf une rente sek (et moustra coment); prest, &c.⁶—*Skip*. A

¹ C., fait.

² From H., and I.

³ From H., and I., but corrected by the record, *Placita de Banco*, Easter, 20 Edw. III., R^o 46. d. It there appears that the action was brought by Agnes late wife of John son of Walter de Garton against Hugh de Flaxton of Garton.

⁴ H., foyalte.

⁵ The count or declaration was, according to the record, "quod, cum ipsa tenet de præfato Hugone novem acras terræ, cum pertinentiis, in Gartone, per fidelitatem et servitium viginti denariorum per annum, de quibus servitiis idem Hugo seisitus est per manus ejusdem Agnetis ut per manus veri tenentis sui, pro quibus servitiis idem Hugo eam acquietare debet versus quoscunque, &c., prædictus Prior [Johannes Prior de

"Wattone] exigit a præfata Agnete homagium et servitium viginti denariorum per annum, et ad ea facienda eam distrinxit per averia carucarum sua, ita quod non, &c., prædictus Hugo, licet sæpius requisitus a præfata Agnete ut ipsam de servitiis prædictis acquietaret ipsam acquietare contradixit, et adtunc contradicit."

⁶ Hugh's plea was, according to the record, "quod ipse nihil habet, nec aliquid juris clamat, in dominico neque in servitiis prædictis, nisi quandam redditum siccum dimidiæ marcæ annuatim percipiendum de tenementis prædictis, et de aliis tenementis in eadem villa, et petit judicium si ipsam Agnetem pro tali redditu acquietare debet. Et hoc paratus est verificare, unde petit judicium, &c."

Nos. 81, 82.

A.D. 1346. &c.—Skipwith. You shall not be admitted to that; since you do not deny that you are seised of our fealty you shall not be admitted to say that the rent is of any other kind than rent service.—And this objection was not allowed.—*Skipwith.* We hold of him; ready, &c.—And the other side said the contrary.

Avowry. (81.) § One avowed a taking for rent service. And they were at issue whether the place of taking was out of the avowant's fee or not. Afterwards the avowant made default. The jury was at the bar ready to give a verdict. The plaintiff prayed the verdict on the avowant's default.—*Herlastone* (Clerk of the Court). If this were the first day after issue had been joined to the country, the avowant would be distrained to hear the verdict; but since it is the second day you may well have the verdict on his default.—*Birton.* When a party justifies his act by a certain cause, and they are at issue on the cause, and he afterwards makes default, he will be distrained to hear his judgment, because the action is confessed, and he does not pursue the justification.—But, in the end, the Court took the verdict on his default, &c.

Trespas. (82.) § John de Stonore brought a writ of Trespass against the Abbot of Buckfastleigh, and counted, by

Nos. 91, 92.

ceo navendrez mye ; puisqe vous ne dedites qe vous A.D. 1346.
nestes seisi de nostre fealte,¹ a dire qe la rente
soit dautre condicion qe de rente service ne serretz
resceu.—*Et non allocatur*.—*Skip*. Nous tenoms de
luy ; prest, &c.—*Et alii e contra*.²

(31.)³ § Un avowa une prise pur rente service. Et ^{Avowere.⁴}
furent a issue le quel le lieu soit hors de son fee ^{[Fitz.,}
ou nient. Puis lavowaunt fit defaute. Lenqueste fut ^{Enquest,}
a la barre prest. Le pleintif pria lenqueste par sa ^{11.]}
defaute.—*Herlastone* (Clerc). Si ceo fut le primer
jour apres lenqueste joynt, il serreit destreint doier
la juree ; mes puis qe cest le secunde jour vous
averetz bien lenqueste par sa defaute.—*Birtone*.
Quant partie justifie soun fait par certeine cause, et
sont a issue sur la cause, et il face defaute apres,
pur ceo qe laccion est conue et il ne pursiwe pas
la justificacion, il serra destreint doier son jugement.
—Mes a drein la Court prist lenqueste par sa
defaute, &c.

(32.)⁵ § Johan de Stonore porta brief de Trans Trans.
vers Labbe de Bukfast, et counta, par *Skip*. qil fut

¹ H., foialte.

² The words *Et alii e contra* are
from H. alone.

The replication of Agnes, upon
which issue was joined, was,
according to the record, "quod
"ipsa tenet tenementa prædicta de
"præfato Hugone per servitia
"prædicta, prout ipsa superius
"narrando supponit, pro quibus
"servitiis ipse tenetur ipsam
"Agnetem versus quoscunque ac-
"quietare." Afterwards, before
verdict, "relicta verificatione præ-
"dicta, prædicta Agnes bene cog-
"novit quod prædictus Hugo nihil
"habet in dominio neque in
"servitiis in tenementis prædictis,

"prout idem Hugo superius placit-
"ando versus eam allegavit."

The judgment was "quod
"eadem Agnes nihil capiat per
"breve suum, sed sit in miseri-
"cordia pro falso clameo, &c."

³ From H., and I.

⁴ The marginal note is from H.
alone.

⁵ From H., and I., until other-
wise stated, but corrected by the
record, *Placita de Banco*, Easter,
20 Edw. III., R^o 84, d. It there
appears that the action was brought
by John de Stonore against Wil-
liam, Abbot of Buffestre (known in
later times as Buckfastleigh), and
others.

No. 32.

A.D. 1346. *Skipwith*, that he was lord of the Hundred of Ermington, within which Hundred he had a franchise to have return of all writs by his bailiffs, and to make summonses, attachments, and distresses by his said bailiffs within the said Hundred, of which franchise he and those whose estate he had had been seised from time whereof memory was not. And he said that a command came to the Sheriff to levy ten shillings of Green Wax, who handed it over to the bailiff of our liberty to levy, because it was within our liberty. And the bailiff came and would have levied it, but the defendant prevented him. And also, because the defendant fished in his several fishery, hue-and-cry was levied, and thereupon his bailiff came with the intention of attaching the parties, and the Abbot prevented him, and took away his wand, and broke it tortiously, &c.—*Mutlow*, who was assigned to the

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seignur del hundrede de E.¹, deins quel hundrede il A.D. 1346. avoit tiele fraunchise, daver retourne de touz briefs par ses baillifs, et a faire somone, attachementz, et destresses par ses dites baillifs deins le dit hundrede, de quele fraunchise luy et ceux qi estat il ad furent seisiz de temps dount il ny ad memore. Et dit qe maundement vint a Vicounte de lever x. s. de verte cire, qe retourna cel al baillif de nostre fraunchise del lever, pur ceo qil fut deinz nostre fraunchise, qe vint et le voleit aver leve, le defendant luy destourba. Et auxi, pur ceo qe le defendant pescha en son several pescherie, hue et crie fut leve, par quei soun baillif vint daver attacher les parties, et Labbe luy destourba, et luy toli sa verge, et luy debrusa atort, &c.²—*Muttl.*, qe luy fut assigne par

¹ MSS. of Y.B., B.

² The declaration was, according to the record, "quod, cum idem Johannes de Stonore teneat hundredum de Ermyntone, &c., ipseque habere debeat libertates regales et alias infra hundredum prædictum, et ipse et omnes alii hundredum, &c., tenentes executiones, &c., brevium, &c., et placitorum infra hundredum, &c., emergentium per ballivos, &c., facere, et proficua, &c., percipere, &c., temporibus retroactis, et licet Ricardus Giffard, ballivus ipsius Johannis hundredi prædicti, die Lunæ proxima ante Festum Sancti Petri ad vincula anno regni domini Regis nunc Angliæ decimo octavo, quendam Johannem de Mouthecombe infra hundredum illud pro quingenta solidis domino Regi debitum per præceptum ei per Vicecomitem missum de extractis Scaccarii domini Regis distrixisse [sic] voluit, prædicti Abbas et alii

"ipsum Ricardum districtionem illam facere vi et armis, videlicet, gladiis, arcubus, &c., prædictis die et anno impediverunt, &c. Item cum prædicti Abbas et alii, in Festo Translationis Sancti Thomæ Martyris anno regni ejusdem domini Regis nunc supradicto, in separali piscaria ipsius Johannis de Stonore et Johannis filii ejus apud Ermyntone vi et armis, &c., piscati fuissent, et piscem cepissent, et quidam Walterus de Screchesle, senescallus ipsius Johannis, et Robertus de Cundicote, ballivus manerii sui de Ermyntone, super ipsos Abbatem et alios hutesium levassent ut pro re contra pacem facta, super quo venit quidam Ricardus Giffard, ballivus ipsius Johannis de Stonore, ad hundredum prædictum, cum alba virga sua, et ipsos Abbatem et alios attachiasse voluisset, prout decet, prædicti Abbas et alii vi et armis, scilicet gladiis, &c.,

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A.D. 1346. Abbot as counsel by the Court, said for him that the writ supposed that the plaintiff was disturbed with regard to all the articles of his franchise, and by his declaration he assigned disturbance only in the opposing of a distress for Green Wax, and in relation to an attachment made on hue and cry levied, without assigning any disturbance with regard to summoning, as was supposed in the writ, so that by his declaration he had not declared the points of his writ; judgment, &c.—*Grene*. We understand that, inasmuch as you took away our bailiff's wand, while preventing the execution of his office, a trespass was committed against us with regard to every article of our franchise; for, if my bailiff be disturbed by you in the execution of his office, I shall have an assise against you as against one who has dis-seised me of the whole of my bailiwick, and for the same reason in this case.—*SHARSHULLE, ad idem*. You cannot say that he has in his declaration omitted any of the articles of his franchise included in his writ; for he has observed the article of attachment by the levying of the hue-and-cry, and distress also for the Green Wax, and summons also, because Green Wax comes by Summons out of the Exchequer. Furthermore, the wand which the bailiff carries is an emblem of the peace, and of his office; therefore whosoever takes it away from him attacks all the articles of the franchise which he has to put in execution; therefore answer.—*Mutlow*. Again, judgment of the writ: for by the writ it is not supposed in what vill or hamlet the trespass was committed; judgment.—*Skipwith*. You shall not be admitted to that, because you have pleaded a variance between the writ and the count; therefore you shall not now be admitted to take exception to the writ.—*SHARSHULLE*. Even though he could be admitted to take exception to it, the writ is good

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Court, dit pur Labbe qe le brief supposa qil fut **A.D. 1346.** destourbe de touz les articles de sa fraunchise, et par sa demoustraunce il assigna la destourbaunce mes en deveer dun destresse pur verte cire, et pur un attachement fait par hue¹ et crie leve, nient assignant destourbaunce en somondre, quel est suppose en le brief, issi par sa demoustraunce il nad pas desclare les pointz de son brief; jugement, &c.—*Grene.* Nous entendoms qe en taunt qe vous tollistes la verge de nostre baillif en destourbaunce de soun office qe trespas fut fait a nous de chescun article de nostre fraunchise; qar, si mon baillif en fesaunt soun office soit destourbe par vous, javeray un assise vers vous come vers celi qe mad disseisi de tote ma baillie, et par mesme la resoun en ceo cas.—*SCHARS., ad idem.* Vous ne poetz dire qil ad entrelesse en sa demoustraunce nul des articles de la fraunchise compris en son bref; qar article dattachement il ad servi par le hue et crie leve, et destresse auxi pur la verte cire, et somons auxi, qar la verte cire vint hors de Somons del Eschequer. Dautre part la verge qe baillif porte est signe de pees, et doffice²; par quei qi qe luy tout cele il fait offens a touz les articles de la fraunchise queux il ad a mettre en execucion; par quei responez.—*Muttl.* Unqore jugement du brief: qar par le brief nest pas suppose en quel ville ne hamele le trespas se fist; jugement.—*Skip.* A ceo navendrez pas, qar vous avetz plede a la variaunce entre brief et counte; par quei ore a chalanger le brief ne serretz resceu.—*SCHARS.* Mesqil poait avenir, le brief est

“ ipsum Ricardum, &c., ballivum
 “ &c., impediverunt, et alia, &c.,
 “ videlicet, virgam suam ab eo
 “ ceperunt, unde dicit quod
 “ deterioratus est, et damnum
 “ habet ad valentiam centum

“ librarum, et inde producit sectam,
 “ &c.”

¹ H., Hughe.

² The words et doffice are omitted from I.

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A.D. 1346. enough, for he has supposed by his writ that the trespass was committed within the Hundred, and that suffices.—Therefore *Mutlow* was put to answer over. — *Mutlow*. Then we tell you that the Hundred extends into ten villis (and *Mutlow* mentioned them by name), and he has not said in which of all the villis the trespass was committed ; [and this he ought to do] because a jury cannot be caused to come from the neighbourhood of a Hundred ; judgment of the writ.—And, notwithstanding this, the writ was adjudged good.—Therefore *Mutlow* prayed that his exceptions might be entered on the roll.—And the COURT granted him this.¹—Therefore *Mutlow* said as to the coming with force and arms, and the taking away of the wand, and the breaking of it, Not Guilty. And, as to the prevention of the distress being made for the Green Wax, we tell you (said *Mutlow*) that we are lord of the manor of B., within which manor we have a franchise such that when any distress is made for any thing due to the King from any of the Abbot's tenants, the bailiff who takes the distress shall drive the distress to the Abbot's pound within the said manor, and there the beasts shall remain for three days, and if the person to whom they belong comes within that time, and pays the debt, he shall have them back again, and, if he does not come, the bailiff may, after the expiration of the three days, drive them whithersoever he pleases within the county. Of this franchise and custom the Abbot and his predecessors, tenants of the said manor, have been seised from time whereof memory runneth not. And *Mutlow* said that the Abbot permitted the bailiff to make the distress, and the bailiff on the same day would have driven the beasts off, without taking them into the

¹ Nevertheless they were not entered on the roll.

No. 32.

assetz bon, qar il ad suppose par son brief qe le **A.D. 1346.** trespas se fist deinz le hundrede,¹ et ceo suffit.—Par quei il fut mys outre.—*Muttl.* Donques vous dioms qe le hundrede¹ sestent en x. villes—et les noma—et il nad pas dit en quel de touz les villes la trespas se fist; qar homme ne poet faire venir pays del visne del hundred; jugement, &c.—Et, *non obstante* ceo, le brief fut agarde bon.—Par quei *Muttl.* pria qe ses chalanges fuissent entrez en roulle.—Et la Court luy graunta.—Par quei il dit qe quant a venir a force et armes et a toller de la verge, et al debruser, de riens coupable. Et, quant al destourbaunce de la destresse fait pur la verte cire, nous dioms qe nous sumes seignur del maner de B.,² deinz quel maner nous avoms tiel fraunchise, saver, qe quant asqun destresse serra fait pur chose due³ au Roi dasqun des tenantz Labbe, qe le baillif qe prent la destresse enchacera la destresse a faude Labbe deinz le dit maner, et la demurent iij jours, deinz quel temps si celi .qi bestes y sount viegne et paie la dette qil les reavera, et, sil ne viegne pas, qe apres les iij jours le baillif les purra enchacer deinz le counte ou luy plest, de quel fraunchise et usage⁴ luy et ses predecessours, tenantz du dit maner, ount este seisiz de temps dount memore ne court. Et dit qil suffry le baillif faire la destresse, et le baillif, mesme le jour, les voleit aver enchace, saunz les mener en faude,

¹ H., loundrede, instead of le hundrede.

² MSS. of Y.B., L.

³ H., diwe.

⁴ The words et usage are omitted from I.

No. 32.

A.D. 1346. Abbot's pound, &c., and the Abbot would not permit that; and (said *Mutlow*) we demand judgment whether he can have an action in respect of that disturbance. And as to the prevention of the attachment following the hue-and-cry *Mutlow* said that the Abbot was lord of the manor of B., as above, within which manor he had view of frankpledge, and said that the river in which the plaintiff had supposed that he had fished, by reason of which fishing the hue-and-cry was levied, was adjoining to his manor, and the soil beneath the water, *usque ad filum aquæ*, was his soil, and he said that the Abbot fished there, as it was perfectly lawful for him to do, and the plaintiff's servants levied the hue-and-cry upon him; and punishment with regard to that article belonged to us, because what was done was within our view of frankpledge, and his bailiff would have effected the attachment, and we did not permit him, *absque hoc* that the plaintiff or any one whose estate he has ever had jurisdiction or amends for trespass committed within the manor, and also *absque hoc* that the Abbot fished anywhere except within the manor; and we demand judgment, since it belongs to the Abbot to have redress in respect of hue-and-cry levied with regard to anything done within his manor, by reason of his franchise as above, whether the plaintiff can assign tort in his person.—*Skipwith*.

No. 32.

&c., et il luy soeffri pas; et demandoms jugement A.D. 1346
 si de cele destourbaunce il puisse accion aver. Et
 quant a la destourbaunce del attachement pur hue¹
 et crie il dit qil est seigneur del maner de B.,² *ut*
supra, deinz quel maner il ad vewe de fraunc plegge,
 et dit qe la rivere en quel le pleintif ad suppose
 qil dust aver pesche, pur cause de quel pescherie le
 hue et crie fut leve, est joignant son maner, et le
 soil de souz lewe tange al fille del ewe est son
 soille, et dit qil pescha illoeqes come bien luy list,³
 et les servauntz le pleintif leverent sur luy hue et
 crie, quel article appendi a nous a punir pur ceo
 qil fut fait deinz nostre vewe, et son baillif voleit
 aver fait lattachement, et nous le luy suffrimes pas,
 saunz ceo qe le pleintif ou asqun qi estat il ad
 unques avoient jurisdiction ou amendes pur trespas
 fait deinz le maner, et saunz ceo auxi qe Labbe
 pescha par aillours forsqe deinz le maner; et
 demandoms jugement, puis qil append a luy daver
 redresse del hue et crie leve de chose fait deinz son
 maner, par cause de sa fraunchise *ut supra*, si tort
 en sa persone pout assigner.⁴ — *Skip*. Vous veietz

¹ H., Hughe.² MSS. of Y.B., L.³ H., plust.

⁴ The Abbot and others pleaded, according to the record, "quo ad hoc quod prædictus Johannes de Stonore supponit ipsos Abbatem et alios venisse vi et armis, et virgam a præfato Ricardo ballivo, &c., cepisse, dicunt quod non sunt inde culpabiles." Upon this issue was joined.

The Abbot further pleaded "quod ipse est dominus manerii de Battekesburghe, infra quod manerium ipse habet talem libertatem et consuetudinem quod qualicumque hora ballivus

"hundreds de Ermyntone faciat
 "districcionem aliquam infra
 "manerium illud pro viridi cera,
 "vel pro aliis denariis domino Regi
 "debitis, super aliquem tenentem
 "ejusdem manerii, idem Ballivus
 "ducere debet illam districcionem
 "ad parcum ipsius Abbatis infra
 "manerium prædictum, ad com-
 "morandum ibidem in parco illo
 "per tres dies et tres noctes, ita
 "quod, si ille qui sic distringitur
 "solver velit prædictos denarios
 "pro quibus sic districtus est infra
 "tempus illud, habebit averia sua
 "quieta, et, si non soluerit, post
 "tempus illud præteritum dictus
 "Ballivus districcionem illam

No. 82.

A.D. 1346. You see plainly how they have confessed that we are lord of the Hundred, within which we have a franchise to have execution of the King's command, and so are the King's officer, while it belongs to the King's officer to levy the Green Wax by distress, and to retain the distress in whatsoever place within the county he pleases, until satisfaction be made to him; and he has avowed the disturbance on the ground of custom, according to his statement, which cannot be a title to disturb the execution of an office which belongs to the King's officer; therefore we demand judgment, and pray our damages. And, as to the other point, you see plainly how they have confessed that we are lord of the Hundred within which the fishery is, and have avowed the disturbance on the ground that they have a Court Leet, and view of frankpledge, within their manor within which they have said that the river is in which the Abbot fished, so that no one but he would have redress or jurisdiction in respect of the hue-and-cry which

" fugare potest ubicumque voluerit,
 " de quibus libertate et consuetu-
 " dine ipse Abbas et omnes præ-
 " decessores sui Abbates, tenentes
 " ejusdem manerii, seisisi fuerunt
 " a tempore quo non extat memoria.
 " Et dicit quod prædictus Ricardus
 " Ballivus Hundredi prædicti venit
 " ibidem prædicto die quo prædictus
 " Johannes queritur, &c., et cepit
 " quandam districtionem de
 " quodam Johanne de Mouthcombe
 " tenente ipsius Abbatis ejusdem
 " manerii infra manerium illud
 " pacifice, sine perturbatione, et
 " illam districtionem voluit eodem
 " die duxisse extra manerium præ-
 " dictum, et idem Abbas illud
 " ipsum facere impedivit sicut ei
 " bene licuit. Et non intendit quod
 " de tali impedimento prædictus
 " Johannes de Stonore aliquam

" injuriam in personam suam
 " assignare possit.

" Et omnes alii dicunt quod
 " eisdem die et anno venerunt in
 " auxilium cum ipso Abbate, absque
 " aliqua injuria contra pacem Regis
 " facienda. Et hoc parati sunt
 " verificare.

" Et, quo ad hoc quod prædictus
 " Johannes de Stonore queritur
 " quod ipse Abbas et alii impedi-
 " verunt prædictum Ricardum
 " Ballivum quo minus ipsos
 " attachiare potuit pro hutesio super
 " ipsos levato, dicit quod ipse est
 " dominus manerii de Battekes-
 " burghe, quod est infra hundredum
 " de Ermyntone, infra quod
 " manerium ipse habet visum
 " franci plegii, et omnia alia quæ
 " ad visum pertinent, de omnibus
 " tenentibus et residentibus infra

No. 32.

bien coment ils ount conu qe nous sumes seignur A.D. 1346.
 del hundrede, dedeinz quel, &c., a faire execucion
 del maundement le Roi, et issi ministre le Roi, ou
 al ministre le Roi est a lever la verte cire par
 destresse, et del retener en quel lieu deinz le counte
 qe lui plect, tanqe son gree soit fait; et il ad avowe
 la destourbaunce par usage, a ceo qil dit, qe ne poet
 estre title a destourber loffice qappent al ministre le
 Roi; par quei nous demandoms jugement, et prioms
 noz damages. Et, quant al autre point, vous veietz
 bien coment ils ount conu qe nous sumes seignur
 del hundrede deinz quel la pescherie est, et ount
 avowe la destourbaunce par taunt qils ount lete et
 vewe deinz lour maner deinz quel ils ount dit la
 rive estre ou il pescha, issi qe pur le hue et crie
 qe fut leve autre naveroit redresse ne jurisdiction

<p>“ manerium illud, et quod ipse “ et omnes prædecessores sui “ Abbates tenentes ejusdem “ manerii usi sunt visu illo, et “ ibidem visum habuerunt a tem- “ pore quo non extat memoria, “ absque hoc quod prædictus “ Johannes de Stonore aut aliquis “ alius tenens hundredi de Ermyn- “ tone prædicti de aliqua re “ infra manerium suum prædic- “ tum [facta] tangente articulum “ visus franci plegii cognitionem “ vel punitionem habuerunt, seu “ emendas ceperunt, quod quidem “ manerium situm est super Ripam “ de Erme, et quæ ripa est solum “ ejusdem subtus ripam illam “ tam large quam prædictum “ manerium se extendit super ripam “ illam, usque filum aquæ ejusdem “ ripæ ex parte illa ubi prædictum “ manerium situm est Et est par- “ cella ejusdem manerii, in qua “ riparia in loco illo idem Abbas “ et prædecessores sui piscati sunt “ a tempore quo non extat</p>	<p>“ memoria, ut in solo suo proprio. “ Et dicit quod ipse et alii prædictis “ die et anno ibidem piscati fuerunt. “ Et super hoc venerunt prædicti “ Walterus de Screchesle et “ Robertus de Cundycote, et hutes- “ ium infra manerium illud super “ ipsum Abbatem et alios “ levaverunt, per quod prædictus “ Ricardus, Ballivus prædicti “ Johannis de Stonore de hundredo “ suo prædicto, venit infra manerium “ prædicti Abbatis prædictum, et “ eos attachiare voluit occasione “ prædicta, ipse Abbas et alii qui “ venerunt in auxilium cum ipso “ Abbate ipsum Ballivum impedi- “ verunt, absque hoc quod ipsi alibi “ infra hundredum de Ermyntone “ prædictum piscati fuerunt, vel “ alibi hutesium super eos levatum “ vel ipsum Ballivum aliquod “ attachiamentum facere alibi “ impediverunt, et non intendit “ quod de tali impedimento in- “ juriā in personis suis assignare “ possit, &c.”</p>
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No. 32.

A.D. 1346. was levied, whereas in respect of hue-and-cry levied with regard to anything done by him within his Leet there cannot be any redress by him, but the redress must be in the Hundred Court; and you have confessed that your manor is within the Hundred and have so confessed tortious disturbance done to our bailiff; therefore we demand judgment, &c.—*Mutlow*. And we demand judgment, since we

No. 32.

mes li, ou de hue et crie leve de chose fait par A.D. 1346.
 luy deinz sa lete par luy ne poet estre redresse,
 mes covient estre redresse en Hundrede; et vous
 avetz conu [qe vostre maner est deinz lundrede, et
 issi avetz conu]¹ tercionouse destourbaunce fait a
 nostre baillif; par quei nous demandoms jugement,
 &c.²—*Muttl.* Et nous demandoms jugement, depuis

¹ The words between brackets are omitted from I.

² According to the record Stonore's replication was "non cognoscendo ipsum Abbatem habere tales libertates et consuetudines in manerio prædicto quales ipse superius allegavit, dicit quod, ex quo prædictus Abbas non dedit ipsum Johannem esse dominum hundredi prædicti et quin ballivus suus illius hundredi facere debeat executiones, summonitiones, districtiones, et attachiamenta infra illud hundredum pro debitis Regis et aliis quibuscunque eidem ballivo per Vicecomitem comitatus illius missis, in quo casu idem ballivus est minister Regis, quem de jure ipsi Abbati seu alicui ali non licet impedire pro debito Regis districtionem facere infra idem hundredum, maxime cum idem Abbas nullum clamat proficuum ad usum suum proprium, et ex quo idem Abbas cognovit ipsum impedivisse prædictum ballivum ad distringendum prædictum Johannem de Mouthecombe, et districtionem fugare, &c., et nihil specialiter seu alio modo nisi per verba vacua Curie hic ostendit per quod liquet ipsum Abbatem tales libertates et consuetudines habere quales superius allegavit, petit iudicium, &c. Et, quo ad hoc quod prædictus Abbas allegat ipsum esse

dominum prædicti manerii de Battekesburghe, et habere visum franci plegii infra idem manerium de omnibus tenentibus et residentibus in eodem, et quod prædictus Johannes de Stonore nec aliquis alius tenens ejusdem hundredi de aliqua re facta infra illud manerium tangente articulum visus franci plegii cognitionem vel punitionem hucusque habuerunt seu emendas ceperunt, quod quidem manerium situm est super ripam prædictam, et tam large quam prædictum manerium se extendit super prædictam ripam, et solum subtile eandem ripam usque filum aque, &c., est solum ipsius Abbatis et parcella prædicti manerii, in quo idem Abbas et prædecessores sui a tempore quo non extat memoria piscati sunt, et iidem Abbas et alii prædictis die et anno ibidem piscati fuerunt, per quod prædicti Walterus et Robertus huteslum super ipsos Abbatem et alios leverunt, per quod ballivus hundredi, &c., ipsos Abbatem et alios ex officio, &c., attachiasse voluit, ipsi Abbas et alii ipsum ballivum impediverunt, et non intendit quod de tali impedimento injuriam, &c., in personis, &c., assignare possit, &c., Dicit quod ipse non cognoscit quod idem Abbas habeat visum franci plegii in manerio prædicto, et, ex quo

No. 32.

A.D. 1846. have affirmed such a custom in us having regard to the one point, and with regard to the view of frankpledge title of prescription, by reason of which we understand that we can make disturbance in respect of the matter abovesaid, which title of prescription they have not denied; therefore, &c.—*Thorpe*. No one can ever claim title of prescription against the King unless some profit is shown to accrue to him through that custom. Now he has not assigned any profit which he could have by that custom; therefore he cannot claim, and particularly since he does not claim to levy the King's debt on this occasion.—*Mutlow*. We show that the custom is to our profit, for we have alleged the custom in respect only of the beasts of our tenants taken within the manor, and so the favour which is shown to them in respect of distress levied upon them is our profit.—*Grene*. It is necessary that the King should be served in respect of his debts, and he will not be limited in the levying of his debts by a custom alleged in opposition to his bailiff, when the result may be supposed to be by reason of the bailiff's negligence or default; therefore prescription in such a matter cannot be alleged as a title against the King to delay him in the levying of his debts, and consequently not against us who are the King's officer deputed to perform this office.—Therefore they were adjourned upon this point, and upon the other point also.

No. 32.

qe nous avoms afferme en nous tel usage eaunt A.D. 1846. regarde al un point, et al vewe, &c., title de prescription, par quel nous entendoms qe nous puissoms faire destourbance de chose susdite, quel title de prescription ils nount pas dedit; par quei, &c.—*Thorpe*. Homme ne clamera jammes title de prescription vers le Roi si profit de cel usage ne luy accrestereit. Ore ad il assigne nul profit qil averoit par cel usage; par quei il ne pout clamer, et nomement puis qil ne cleyme pas a lever la dette le Roi pur cel temps.—*Muttl*. Nous moustroms qe lusage est en profit de nous, qar nous avoms allegge le usage mes des bestes noz tenantz pris deinz le maner, et issi le desport qest fait a eux de lour destresse si est profit a nous.—*Grene*. Il covient qe le Roi soit servi de ses dettes, [et il ne serra pas limite a lever ses dettes]¹ par usage vers soun baillif, quel poet estre suppose par necligence et defaute de baillif; par quei prescription de cele ne poet estre dit title countre le Roi de soi proloigner de ses dettes a lever, et, *per consequens*, nient vers nous qe sumes ministre le Roi en cel office deputez.—Par quei sur cel point [et auxi sur lautre point,]¹ ils sont ajournes, &c.²

“prædictus Abbas non dedicit quin
“hutesium super ipsum et alios,
“&c., extitit levatum eo quod in
“riparia prædicta piscati fuerunt,
“in quo casu idem Abbas iudex
“suus proprius in sua querela pro-
“pria de jure esse non debet, et, ex
“quo idem Abbas expresse cognovit
“ipsum impedivisse prædictum
“ballivum hundredi, &c., ipsos
“Abbatem et alios attachiare pro
“hutesio, &c., cui nemini de lege
“licuit impedire, maxime cum
“idem ballivus Minister Regis sit
“in hoc casu, et, ex quo idem Abbas
“et alii actionem versus eum

“habuisse potuerunt ad commu-
“nem legem et habuisse debuerunt,
“petit iudicium, et damna sibi
“adjudicari.”

¹ The words between brackets are omitted from I.

² After adjournments, judgment was, according to the roll, given as follows:—“Quia prædicti Abbas et
“alii superius expresse cognoverunt
“quod prædictus Johannes de
“Stonore est dominus hundredi
“prædicti, et quod prædictus
“Ricardus Giffard tunc fuit balli-
“vus illius hundredi, non dedicens
“quin idem ballivus districtiorem

No. 32.

A.D. 1846. § John de Stonore brought a writ of Trespass
Trespass. against the Abbot of Buckfastleigh, supposing himself to be lord of the Hundred of Ermington, in respect of which Hundred he had royal and other franchises, to make summonses, attachments, and distresses, and the execution and return of writs.—And he counted that the defendant had disturbed him in the levying of the Green Wax, and in making attachments in respect of a hue-and-cry levied.—*Mutlow* took exception to the effect that he had not by his declaration carried out his writ, that is to say, by showing that tort had been done to him in all the points supposed by the writ.—*Grene*. We have said and shown that the Abbot did other injuries to the plaintiff, that is to say, that he took away from our bailiff the bailiff's wand, and broke it; and whosoever takes away from my bailiff his wand, which is an emblem of his office of bailiff and of the keeping of the peace, attacks the whole franchise, and is a real cause of disseisin.—And for that reason *Mutlow* was put to answer over.—*Mutlow*. We tell you that the Hundred extends into several vills (and he mentioned them by name), and this writ is not brought in any vill; judgment of the writ.—*Grene*. A writ of this kind will not be brought in any vill, because possibly there is not any vill and possibly there are twenty vills in the Hundred, and it is not right to mention

No. 32.

§ Johan¹ de Stonore porta brief de Trans vers A.D. 1346. Labbe de B., supposant qil est seignur del Hundrede^{Trans.} de E.,² de quel Hundrede il ad fraunchises reals et autres, somons, attachements, et destresses a faire, et execucion et retourne des briefs.—Et counta qe le defendant luy avoit destourbe en le lever de la vert³ cire,⁴ et faire attachements dun hue et crie leve.—*Mutl.* chalengea qe par sa moustraunce il navoit pas servy a soun brief, saver, moustrant qe tort luy fuit fait en touz les pointz supposes par le brief.—*Grene.* Nous avoms dit et moustre⁵ qautres ledes luy fist, saver, qil tollist⁶ a nostre baillif sa verge, et la debrusa; et qi qe toud⁷ a moun baillif sa verge, qest signe de sa baillie et del garde de la pees il offende tut la fraunchise, et est propre cause de disseisine.—Et sur cele cause est mys outre.—*Mutl.* Nous vous dioms qe le Hundrede sestent en plusours villes (et les noma) et ceo brief nest pas en nulle ville; jugement du brief.—*Grene.* Tiel brief ne serra pas porte en ville, qar par cas il ny ad pas ville, et par cas ils ount xx villes en le Hundred,

“ cepisse voluit pro debito Regis
 “ per præceptum ei per Vicecomitem
 “ missum, videlicet, pro prædictis
 “ quinquaginta solidis, et id quod
 “ iidem Abbas et alii allegant pro
 “ usu et consuetudine per præscrip-
 “ tionem temporis eis valere non
 “ potest nec debet in hoc casu,
 “ maxime cum iidem Abbas et alii
 “ virtute illius consuetudinis nullam
 “ ad se clamant proficuum, sed
 “ citius onus et damnum quam pro-
 “ ficium, Consideratum est quod
 “ idem Johannes de Stonore, quo
 “ ad hoc, recuperet versus ipsos
 “ Abbatem et alios damna sua, quæ
 “ taxantur per Justiciarios hic ad
 “ viginti libras Et iidem Abbas et
 “ alii capiantur. Et, quo ad alium
 “ articulum, videlicet, quo ad hoc

“ quod idem Johannes de Stonore
 “ supponit ipsos Abbatem et alios
 “ impedivisse prædictum Ricar-
 “ dum ballivum hundredi, &c.,
 “ attachiare eos pro hutesio super
 “ ipsos levato, recitatis rationibus
 “ prædictis et intellectis quo ad hoc
 “ obrationes superius allegatas, con-
 “ sideratum est quod iidem Abbas et
 “ alii eant inde sine die, et prædic-
 “ tus Johannes de Stonore quo ad
 “ hoc nihil capiat per breve suum.”

¹ This report of the case is from L., and C.

² MSS. of Y.B., A.

³ C., veer.

⁴ L., Sire.

⁵ C., counte.

⁶ L., tollast.

⁷ L., toudra.

No. 92.

A.D. 1346. all the villis by name, and for that reason the place in which the trespass and the disturbance were committed will be definitely assigned in the count, and that we have done.—Therefore *Mutlow* was put to answer over.—And there was also touched the point that, after exception has been taken to a variance between the writ and the count, the defendant has lost the advantage of an exception to the writ.—*Mutlow*. The writ purports that the plaintiff has a fishery in the river Erme, which river is parcel of his manor of Ermington, and that we took fish there, and he does not determine in what vill it was, whereas the river Erme extends into several villis (and *Mutlow* mentioned them by their particular names); judgment of the writ.—SHARSHULLE. The word in the writ is *ibidem*, which must be understood to mean in the place which is parcel of his manor, and therefore the writ is good enough, and therefore answer.—*Mutlow*. We tell you that the Abbot is lord of the manor of B., which is within the Hundred, &c., within which manor he has a Court Leet, and everything belonging to a Court Leet, so that no one ought to intermeddle but himself and his officers. And we tell you that the river Erme runs beneath his manor, and is parcel of his manor *usque ad filum aque*, and he has a fishery there, and he and his predecessors have had it from all time, and the plaintiff's bailiffs, on the day in respect of which the plaintiff has counted, would have disturbed him and have attached him for fishing, whereupon hue-and-cry was levied, and he prevented them; judgment whether any tort, &c. And as to coming with force and arms and breaking the wand he said Not Guilty. And as to preventing the making of a summons he said, as above, that the Abbot is lord of the manor of B., within which manor he and his predecessors from all time have

No. 92.

et nest pas resoun de nomer toux les villes, et pur A.D. 1346.

ceo en count serra assigne en certain ou le trans se fist et la destourbaunce, et ceo avoms nous fait.

—Par qai il fuit mys outre.—Et auxint fuit touche qapres variaunce chalenge entre brief et count il perdist lavantage del excepcion.—*Mutl.* Le brief voet¹ qe le pleintif ad pescherie en la river de E., quele river est parcelle de soun maner de E.,² et qe nous preissons pessoun illoeqes, et ne determine pas en quele ville, la ou la rivere de E. sestend en plusours villes, et les noma en certain; jugement du brief.—*SCHAR.* Le brief voet *ibidem*, qe covient estre entendu en le lieu qest parcelle de son maner, par qai il est assetz boun et pur ceo³ responez.—

Mutl. Nous vous dioms qe Labbe est seignur del maner de B., quel est deinz le Hundrede, &c., deinz quel maner il ad lete et qantqe a lete appent, issi qe nulle se deit medler si noun luy et ses ministres. Et vous dioms qe la river de E. court south⁴ soun maner, et est parcelle de soun maner tanqal fil del ewe, et illoeqes ad pescherie, et luy et ses predecessours ont eu de tut temps, et les baillifs le pleintif, le jour qil ad counte, luy volleint aver destourbe et aver attache pur la pescherie, sur qai hue et crie fuit leve, et il les destourba; jugement si tort, &c. Et dist, quant a vener a force et armes et debruser la verge, de rien coupable. Et quant al destourber de somons faire, &c., il dit, *ut supra*, qil est seignur del maner de B.,⁵ deinz quel maner⁶ luy et ses predecessours de tut temps ont eu⁷ tele

¹ voet is omitted from C.

² MSS. of Y.B., N.

³ L., par qai, instead of et pur ceo.

⁴ C., sur, instead of court south.

⁵ MSS. of Y.B., D.

⁶ maner is omitted from C.

⁷ eu is omitted from C.

No. 32.

A.D. 1346. a custom and a franchise such that if any distress was made by the bailiff of the King or of the Hundred for anything whatsoever, the distress should be taken to the Abbot's pound within the same manor, to remain there for three days, so that the person who had been so distrained might be able to make satisfaction within that time, &c., and that if he did not so make satisfaction the bailiff might take the distress wherever he pleased. And *Mutlow* said that this distress in respect of which, &c., was made on one of the tenants within the Abbot's manor, and that the plaintiff's bailiff would have driven it immediately outside of the manor, and that the Abbot would not permit him, *absque hoc* that the Abbot committed any other disturbance ; judgment. — *Skipwith*. As to the first point, he does not deny that we are lord of the Hundred, in which, even though he had view of frankpledge within his own manor, he would not have jurisdiction in respect of a matter touching himself or his officers, but would be cried throughout our Hundred, and therefore we demand judgment. And as to the other point, inasmuch as he does not deny that he made the disturbance, and that which he says about custom, which is in fact contrary to the King's statute,¹ cannot be drawn to establish custom or franchise without a specialty of which he shows nothing, judgment, &c.²

¹ 13 Edw. I. (Wynton.), c. 6.

² For a continuation of the report see Y.B., Mich., 20 Edw. III., No. 101, and for the conclusion Y.B., Hil., 21 Edw. III. (old editions), No. 10 (fo. 3, b.). For the judg-

ment as entered on the roll, see above, p. 251, note 2. For another action brought by John de Stonore and his son against the Abbot of Buckfastleigh, see below No. 38 in this term.

No. 92.

custume et fraunchise et si nulle destresse fuit A.D. 1246. fait par baillif le Roi ou del Hundrede pur qecunqe chose, qe la destresse serreit mene al parke Labbe deinz mesme¹ le maner, illoeqes a demurer par iij² jours, issint qe celui qe issint fuit destreint deinz cel temps purra faire gree, &c., et sil ne fet qe le baillif³ meneroit⁴ la destresse quel part luy plerreit. Et dit qe cel destresse dount, &c., fuit fait sur un des tenantz deinz soun maner, et le baillif le pleintif le volleit aver enchace tantost hors del maner, et il nel soeffri pas, sanz ceo qautre destourbaunce fit; jugement.—*Skip*. Quant al primer point, il ne dedit pas qe nous sumes seignur del Hundrede, ou, tut avoit il vewe deinz soun maner de chose touchaunt luy mesme ou ses ministres, il navera pas jurisdiction, mes serreit crie par mye en nostre Hundrede, par qai jugement. Et, quant a lautre point, desicome il dedit pas qil ad fait la destourbaunce, et ceo qil parle dusage, qest proprement encountre lestatut le Roi, ne poet sanz especialte estre tret en usage ne fraunchise, et de ceo rienz ne moustre, jugement, &c.

¹ mesme is omitted from C.² L., iiij.³ C., les baillifs, instead of le — baillif.⁴ C., menerent.

Nos. 33, 34.

A.D. 1346. (33.) § Five persons sued a *Scire facias* in respect of damages in the King's Bench, and the record purported that six persons had recovered the damages.—*Skipwith* demanded judgment of the writ, on the ground that the existence of the sixth person at one time was proved by the record, and his death was not supposed by the writ; judgment.—*Grene*. We say that he has died.—And, because the writ did not suppose his death, the writ was abated.

Statute Merchant. (34.) § John de Burnham, parson of the church of C., and one J. made a statute merchant to one R. Leche, and this same John, with other persons, severally made divers other statutes to this same R., upon which R. had execution. John and all the other obligors came into Chancery and produced an indenture by which R. granted to them that if John paid to him, and to one T., one hundred pounds, that is to say, twenty pounds each year, the above-mentioned statutes should lose their force. And John said that he had fulfilled the covenant, and he had a writ to the Justices in favour of all the obligors *quod vocatis partibus, &c.* And upon that writ he had a *Scire facias* to warn R. to show cause wherefore he had sued execution contrary to his own deed, and that was for them all. And the writ was not returned.—*Grene*. You have here R., and he prays execution, because he has been warned and has appeared; and whether the writ be returned or not, that ought not to prevent us having our execution since it is your suit, and particularly when we have a day in Court by the roll.—*Moubray*. We tell you, for John de Burnham, that we delivered the writ to the Sheriff. And see here the Sheriff's bill which testifies the fact. And we are ready to sue against the Sheriff. And we do not understand that you ought to have execution before the writ is returned.—And, notwithstanding this, because R. had a day by the roll, John

Nos. 33, 34.

(33.)¹ § V. suirent un *Scire facias* des damages en A.D. 1346. Baunk le Roi, et le recorde voleit qe vj. lavoint recoveri.—*Skip.* demanda jugement de brief, de ceo qe la vie le vj^m. par recorde est prove a un temps, et sa mort nest pas suppose par le brief; jugement.—*Grene.*² Nous dioms qil est mort.—Et pur ceo qe le brief nel supposa, le brief est abatu.

(34.)³ § Johan de Burnham, persone del eglise de C., et un J. fesoient un estatut marchaunt a un R. Leche, et mesme celi Johan ove autres persones severals fesoient autres divers estatutz a mesme celi R., sur queux R. avoit execucion. Vint J. et trestouz les autres en Chauncellerie et moustrerent une endenture par quele R. a eux graunta qe si J. paie a luy, et a un T., c.li., saver, chesqun an xx. li. qe adonques les estatutz susditz perdent lour force. Et dit qil avoit tenu covenant, et avoit brief a les Justices pur eux touz *quod vocatis partibus, &c.* Et sur ceo avoit brief a garnir R. pur quei il avoit suy execucion countre son fait, et pur eux toux. Et le brief ne fut pas retourne.—*Grene.* Vous avetz cy R., et prie execucion, puis qil est garny et est venu; et le quel qe le brief soit retourne ou nent, ceo ne nous deit destourber de nostre execucion puis qe cest vostre sute, et nomement quant nous avoms jour en Court⁴ par roulle.—*Moubray.* Nous vous dioms, pur J. de Burnham, qe nous livrames le brief al Vicounte. Et veietz qe la bille le Vicounte qe le tesmoigne. Et sumes prest a suir vers le Vicounte. Et nentendoms pas qe avant qe le brief soit retourne vous devetz execucion aver.—Et, *non obstante* cele, pur ceo qil avoit jour par roulle, il fust

¹ From H., and I.² H., *Skip.*³ From H., and I., until otherwise stated.⁴ The words en Court are omitted from I.

No. 34.

A.D. 1346. was put to pursue [the *Audita Querela*] if he would. —And the others did not appear.—*Skipwith*. Since the suit is taken in common with the others who do not appear, we do not understand that John de Burnham will be admitted to maintain any suit alone.—And, notwithstanding this, John was admitted alone. And he made *profert* of the indenture, which bore the date of the nineteenth year of the present King. And he produced to the Court the whole of the hundred pounds in gold, and said that he had previously been ready to pay the amount by the instalments mentioned in the indenture.—*Grene*. You see plainly how the indenture supposes that John and one person levied one statute, and John and another person levied another statute, and so it is proved that they are bound, and consequently they must be discharged severally and by several suit, and this suit is taken for them in common; judgment whether we have any need to answer to this suit, which is not warranted by the liens; and we pray execution.—*SHARSHULLE*. This suit is taken in virtue of the indenture which discharges them in common; therefore it is sufficient to maintain the suit.—Therefore *Grene* was put to answer over.—*Grene*. Still you see plainly how they are suitors and the others are not; and he does not show that he has suffered damage by livery of his land or by imprisonment of his body, by reason of which the suit would be given, and particularly since the others for whom the suit is taken do not prosecute it; and we demand judgment whether to this suit, &c.—Afterwards *Grene* said:—Whereas John has said that he tendered the money to us *in pais*, to wit, at N., ready, &c., that he did not.—And the other side said the contrary.—*Moubray*. Now we pray a writ to the Sheriff of S. to cause to come the bodies of our companions, who have been taken, to maintain the

No. 34.

mys a suir sil voleit.—Et les autres ne viendrent A.D. 1346. pas.—*Skip*. Puis qe la sute est pris en comune od les autres qe ne veignent pas, nentendoms pas qil soul serra resceu dasqune sute meyntener.—Et, *non obstante* celi, J. fut resceu soul. Et myst avant lendenture qe porta date del an xix. le Roi gore est. Et myst avant a la Court totes les c.li. en ore, et dit qil avoit este prest avant de paier solonc les porcions compris en lendenture.—*Grene*. Vous veietz bien coment lendenture suppose J. et une persone lever un estatut, et J. et une autre persone lever un autre estatut, issi est ceo prove qils sount [liez, et, *per consequens*]¹ severalment par seute several ils serrount deslietz, et ceste seute est pris pur eux en comune; jugement si a ceste seute qe nest pas garrantie de les liens eioms mester a respoudre; et prioms execucion.—*SCHARS*. Ceste sute est pris par force del endenture qe les descharge en comune; par quei a cel suffit de meyntenir la sute.—Par quei il fut mys outre.—*Grene*. Unqore vous veietz bien coment ils sount seuters, et les autres nent; et ne moustre pas qil est endamage par livre de terre ne par enprisonement de son corps, par cause de quel la sute serra done, et nomement puis qe les autres pur queux la sute est pris ne siwent pas; et demandoms jugement si a ceste sute, &c.—Puis *Grene* dit qe la ou il ad dit qil nous tendi les deners en pays, saver a N., prest, &c., qe noun.—*Et alii e contra*.—*Moubray*. Ore prioms brief al Vicounte de S. de faire vener les corps noz compaignons, qe sont pris, de meintener

¹ The words between brackets are omitted from I.

No. 35.

A.D. 1346. suit with us.—And because he had been admitted to sue alone, and the others cannot now be made parties to this suit, he therefore could not have the writ, &c.

*Audita
Querela.*

§ John de Brimham, clerk, and two others sued an *Audita Querela* against one who had sued execution against them on statute merchant in respect of three statutes severally made by each of the three. And the two others were in prison. And John made *profert* of an indenture purporting that, if they or any one of them should pay the money at certain terms, the statutes should lose their force.—*Grene*. This indenture is the original of this suit, and the other two who are in prison are not parties to it, but only John; judgment whether you will put us to answer by reason of this writ purchased by the three in common, and that in respect of several statutes.—*STONORE*. The indenture purports that, if they or any one of them pays, all the statutes lose their force, and therefore answer.—*Grene*. They did not tender the money to us; ready, &c.—And the other side said the contrary.

*Quare
impedit.*

(35.) § A prebendary¹ brought a *Quare impedit* against the Dean of Warwick [and John Martyn, chaplain]. And the writ was in common form. And he counted that the patronage belonged to him, [and that John tortiously prevented him from presenting], and tortiously because it belonged to him and to the Dean, who was defendant, to present, inasmuch as they ought to present in common.—*Seton*. Judgment

¹ For the name, see p. 263, note 4.

No. 35.

la sute od nous.—Et pur ceo qil fut soul resceu a A.D. 1346. suir, et les autres ore a ceste sute ne pount estre faitz parties par quei il ne le poet aver, &c.

§ John¹ de Brimham, clerc, et deux autres suyrent *Audita Querela* vers un qe avoit suy execucion vers eux par estatut marchaunt de iij estatuts severalment fait par chesqun des iij. Et les deux sount enprisones. Et Johan mist avant endenture qe si eux ou asqun paiast a certeinz termes, &c.—*Grene*. Ceste endenture est original de ceste suite, et a ceste endenture les autres deux qe sount enprisones ne sount pas partie mes soulement Johan; jugement si par ceste brief purchase par les iij en comune, et ceo de several estatuts, vous nous² voilletz mettre a respoudre.—*Ston*. Lendenture voet si eux ou asqun deux³ paie qe touz les estatuts perdent lour force, et pur ceo responez.—*Grene*. Ils ne tendirent pas les deners a nous; prest, &c.—*Et alii e contra*.

(35.)⁴ § Un provandre porta *Quare impedit* vers le Dean de W.⁵ Et le brief fut comune. Et counta qe a savoweson appent, et pur ceo atort qil appent a luy et al Dean qest defendant a presenter, par taunt qils presentereint en comune.⁶—*Setone*. Juge-

¹ This report of the case is from L., and C.

² nous is omitted from C.

³ C., de eux.

⁴ From H., and I., until otherwise stated, but corrected by the record, *Placita de Banco*, Easter, 20 Edw. III., R^o 144. It there appears that the action was brought by William de Derby, Prebendary of the prebend "beatæ Mariæ de Warrewyke in ecclesia beatæ Mariæ de Warrewyke" against "Robertus de Derby, Decanus ecclesiæ beatæ Mariæ de Warrewyke, et Johannes Martyn,

"capellanus, de placito quod permittant ipsum præsentare idoneam personam ad ecclesiam beati Petri de Warrewyke."

⁵ MSS. of Y.B., L.

⁶ The declaration was, according to the record, "quod quidam Ricardus Tankard, quondam Decanus ecclesiæ beatæ Mariæ de Warrewyke, prædecessor prædicti Decani, et quidam Willelmus de Uptone, quondam Præbendarius præbendæ beatæ Mariæ de Warrewyke, prædecessor ipsius Willelmi, fuerunt seisisi de advocacione ecclesiæ prædictæ,

Audita Querela.

Quare impedit.
[Fitz.,
Quare impedit,
63.]

No. 35.

A.D. 1346. of the count, because at the commencement he supposes himself to be sole patron, and in the conclusion of his count he shows that he is patron in common with us, and so the declaration is repugnant in itself; judgment.—*Pole*. We cannot have any other count on our matter, and we demand judgment whether, &c.—*Grene, ad idem*. If one joint tenant disseises another, the disseisee will have an Assise alone against his companion for the tort which the latter has done, without naming the disseisor as plaintiff with him; and so also in this case, since we have supposed the hindrance to be in him, the suit is maintainable for us alone without naming him as plaintiff with us.—*WILLOUGHBY*. The law was formerly that one joint feoffee should not have an Assise against another without naming the other as plaintiff with him, but this other law has been recently practised; but between parceners, where the tenant of their common ancestor has forfeited during the ancestor's time, and one of the parceners has entered upon the whole, the other must in his writ of Escheat name the tenant with himself [as demandant]; and so also in a Formedon; and so it seems also in this case.—*Thorpe*. That is true; in an ancestral action one cannot bring the writ without the other; but, where the action is taken on their own possession, the writ may be maintained by one against the other; and so also in our case, since the count is that they presented¹ in common, the suit is maintainable for one.—*SHARSHULLE*. Assise of

¹ This was not so, according to the Dean and of the prebendary the record. The predecessors of presented.

No. 35.

ment de counte, qar al commencement il suppose **A.D. 1846.**
 estre soul avowe, et en le perclos de son counte il
 moustre qil est avowe eu comune ove nous, issi la
 demoustrance repugnant en luy mesme; jugement.¹—
Pole. Autre counte sur nostre matere ne poms aver,
 et demandoms si, &c.—*Grene, ad idem.* Si lun
 joyntenant disseise lautre, le disseisi avera soul
 assise vers son compaignon pur le tort qil ad fait,
 saunz nomer le disseisour pleintif ovesqe luy; et
 auxi en ceo cas, puis qe nous avoms suppose la
 destourbaunce en luy, la seute est meyntenable pur
 nous soul saunz luy nomer pleintif od nous.—
WILBY. Launciene lei fut qe lun joynt² feffe
 navera pas assise vers lautre sanz nomer lautre
 pleintif od luy, mes cel leye est use de novel; mes
 entre parceners, la ou le tenant lour comune
 auncestre forfit en son temps, et lun entre en tut,
 lautre en un brief Deschete covient nomer le tenant
 od luy; et auxi en Fourme de doun; et auxi
 semble en ceo cas.—*Thorpe.* Il est verite; en
 accion auncestrel lun ne portera brief saunz lautre;
 mes, la ou laccion est pris de lour possession
 demene, le brief est meyntenu pur lun vers lautre;
 et auxi en nostre cas, puis qe le counte est qils
 presenterent en comune, la seute est meyntenable

"et ad eandem ecclesiam præ-
 "sentarunt quendam Ricardum
 "de Patwode, clericum suum, qui
 "ad præsentationem suam fuit
 "admissus et institutus, . . .
 "tempore domini Edwardi Regis
 "patris domini Regis nunc, per
 "cujus mortem prædicta ecclesia
 "modo vacat. Et sic dicit quod ad
 "ipsum Willelmum simul cum
 "prædicto Decano pertinet ad
 "prædictam ecclesiam ad præsens
 "præsentare, prædictus Johannes
 "ipsum inde injuste impedit."

¹ The plea was, according to the
 record, "quod prædictus Willelmus,
 "tam per breve suum prædictum,
 "quam per demonstrationem suam,
 "supponit advocationem ecclesiæ
 "prædictæ ad ipsum Willelmum
 "solum pertinere, et in conclusione
 "narrationis suæ supponit quod
 "præsentatio ad eandem ecclesiam
 "ad ipsum Willelmum et præ-
 "dictum Decanum pertinet in
 "communi, unde petunt judicium
 "de variatione, &c."

² H., yoint.

No. 35.

A.D. 1346. Darrein Presentment lies more properly in this case for you alone than this writ of *Quare impedit* does; and because you have counted that he is patron in common with you, and this writ is taken for you alone and is not maintainable in this case, therefore it is adjudged that you do take nothing by your writ.—And the defendant did not have a writ to the Bishop, because he had not made a title for himself to facilitate it.—*Moubray*. The plaintiff has by his count given us a title to present; therefore by reason of any default in not making a title we ought not to be ousted so as not to have a writ to the Bishop.—*WILLOUGHBY*. That acknowledgment of title which the plaintiff has made to you is made to you and him in common, and therefore, if you ought on that acknowledgment to have a writ to the Bishop, you ought to have it together with him, which is impossible; therefore it must be imputed to you as your own fault that you have not made a title.—Therefore he could not have a writ to the Bishop.

*Quare
impedit*

§ William Derby, prebendary of the prebend of Our Lady in the church of Our Lady of Warwick, brought a *Quare impedit* against the Dean of Warwick and another, counting that the latter tortiously prevented him from presenting, &c., and tortiously for that it belonged to him to present together with the same Dean. And he counted that he and the Dean were seised of the patronage and presented the parson by whose death the church is now void, and in the conclusion he also mentioned that it belonged to him and to the Dean to present.—*Seton*. First

No. 35.

pur lun.—SCHARS. Assise de drein presentement gist A.D. 1846. plus proprement en ceo cas pur vous soul qe ceo brief ne fait; et pur ceo qe vous avetz counte qil est avowe od vous en comune, et pur vous soul cest brief est pris qe nest pas meyn tenable en ceo cas, par quei il agarda qe il ne prist riens par soun brief.¹—Et le defendant navoit pas brief al Evesqe, pur ceo qe il ne luy avoit pas fait title pur aver eide cele.—*Moubray*. Le pleintif par son counte nous ad done title de presenter; par quei pur defaute de noun fesaunce de title nous ne devons estre ouste qar nous naveroms brief al Evesqe.—*WILBY*. Cel conissaunce [qe le pleintif vous ad conu est a vous et a luy en comune, par quei si vous duissetz sur]² cel conissaunce aver brief al Evesqe, vous le duissetz aver od lui, qe ne poet estre; par quei ceste arettre a vostre default qe vous nussetz fait title.—Par quei il ne poet brief al Evesqe aver.

§ William³ Derby, provandrere de la provandre nostre Dame en leglise nostre Dame de Warwyke⁴ porta *Quare impedit* vers le Dean de Warwyke et un autre, countant qe a tort luy destourbe a presenter, &c., et pur ceo a tort qe a luy appent a presenter ensemblement ove mesme le Dean. Et counta coment il et le Dean furent seisiz del avowere et presenterent par qi mort leglise est ore voide, et en la conclusioun fist mencioun auxi qe a luy et al Dean appent a presenter.—*Setone*. Primes

¹ The judgment was, according to the roll, "Quia ad hujusmodi narrationem sic in se variantem non est respondendum, consideratum est quod prædicti Decanus et Johannes cant inde sine die, et prædictus Willelmus nihil capiat per breve suum, sed sit in

"misericordia, &c."

² The words between brackets are omitted from I.

³ This report of the case is from L., and C.

⁴ L., de Everwyke; C., Deverwyke, instead of de Warwyke.

No. 85.

A.D. 1346. he has counted that it belongs to him alone to present, and afterwards that it belongs to him and to another to present, and so the count is repugnant; judgment of the count.—*Pole*. That which I counted first—that it belongs to me to present—is for the purpose of being in accordance with my writ, and I cannot have any other writ in this case, and I afterwards declared my matter showing how it belongs to me and another to present, and so I could not count otherwise.—*Stonore*. Who would have a writ to the Bishop on this declaration?—*Pole*. Both of us.—*Stonore*. That would be something extraordinary on this writ.—*Pole*. I cannot have any other recovery but by such a writ.—*Grene, ad idem*. And some people say that, when two hold an advowson in common, and one presents alone, the other should bring a writ for himself and the other and should name the disturber as plaintiff and defendant, but that does not seem to be right, because if two hold jointly and one disseises the other, the disseisee will have an Assise alone, and need not name the disseisor as plaintiff; so also in this matter, the one who has committed the tort shall not be named as plaintiff.—*Willoughby*. The law formerly was, in case of an Assise of which you speak, that the disseisor should be named as plaintiff and as disseisor by diversity of surname, and so also it has to be in many cases, as in a writ of Escheat and other writs in which heirs are demandants when one deforces the others; and in that way should this writ also be brought if it is to be of any avail.—*Thorpe*. In the cases of which you speak, in which one and the same person should be named as demandant and as tenant, this rule of law extends only to cases in which the one who is tenant can be severed as demandant in his suit, in respect of his own portion, but with regard to this writ,

No. 85.

ad il counte qe a luy soul appent a presenter, A.D. 1846.
 et puis qe a luy et a un autre appent a presenter,
 issint le count repugnant; jugement du count.—*Pole*.
 Ceo qe jeo primes ay counte qe a moi appent a
 presenter cest pur acorder a moun brief, et jeo ne
 puisse autre brief aver el cas, et apres desclarra ma
 matere coment a moi appent¹ a presenter et autre,
 et issint ne purroy autrement counter.—*Ston*. Qi
 avereit brief al Evesqe sur ceste moustraunce?—
Pole. Nous deux.—*Ston*. Ceo serreit merveille en
 ceste brief.—*Pole*. Jeo ne puisse autre recoverir
 aver forqe par tiel brief.—*Grene, ad idem*.² Et
 asquns gentz parlent qe quant deux tenent une
 avoweson en comune, et lun presente soul qe lautre
 portereit brief pur³ luy mesme et lautre, et⁴ nomereit
 le destourbour pleintif et defendant, mes ceo ne
 semble pas resoun, qar si deux tenent jointement, et
 lun disseise lautre, le disseisi avera lassise soul, et
 ne covient pas nomer le disseisour pleintif; auxi de
 ceste part celuy qad fait le tort il ne serra pas
 nome pleintif.—*Wilby*. Launcien ley fuit, el cas
 Dassise qe vous parletz, qe le disseisour serreit nome
 pleintif et disseisour par diversite de surnoun, et
 auxint covient en moltz des cas, en brief Deschet,
 et autres briefs ou heires demandent, quant un de-
 force les autres; et issint serreit ceo brief porte
 sil duist valer.—*Thorpe*. En le cas ou vous parletz,
 ou une mesme persone serreit nome⁵ demandant et
 tenant, cele lei sestent soulement quant celuy qest
 tenant poet estre severe come demandant en sa
 suite par sa porcioun, mes en ceo brief, ou sever-

¹ C., il attient a moi, instead of
 a moi appent.

² The words *ad idem* are from C.
 alone.

³ L., purreit presenter par,
 instead of portereit brief pur.

⁴ et is omitted from L.

⁵ nome is omitted from C.

No. 96.

A.D. 1346. on which severance does not lie, the law is not such.—WILLOUGHBY. Assise of Darrein Presentment would serve his purpose in this case, for, on the matter being found true by the assise, both would have a writ to the Bishop, and so would a stranger on verdict.—SHARSHULLE abated the writ, and said that the defendant would not have a writ to the Bishop, because he had not made a title for himself on this writ.

Assise of
Novel
Disseisin.

(96.) § Reginald de Mohoun and Elizabeth his wife brought an Assise of Novel Disseisin against several persons in Cornwall, and it was adjourned into the Bench by reason of difficulty. And one of the defendants answered by attorney, and pleaded in bar. And afterwards, on another day, that defendant appointed another attorney without removing the first. The last-appointed attorney now proffered himself, and was ready to hear the verdict of the assise. The other attorney, the earlier appointed according to his warrant, pleaded in bar as before.—*Skipwith*. You see plainly that the party's attorney pleads to the assise, and therefore we have no need to answer to the plea of the other attorney, of which the object is to stop the assise; and we pray the assise.—*Grene*. When one attorney pleads in arrest of the assise, and the other pleads to the assise, the plea of that one which is most to the advantage of his client will be admitted, as, for instance, if an infant under age is impleaded, and one guardian pleads in bar, and another guardian confesses the action, the plea of the one who pleads

No. 86.

aunce ne gist pas, la lei nest pas tiele.—WILBY. A.D. 1346. Assise de Darrein¹ Presentement luy servireit en ceo cas, qar sur la verite trove par assise lun et lautre avereit brief al Evesqe, et si avereit un estrange sur verdit.—SCHAR. abatist le brief, et dit qe le defendant navera pas brief al Evesqe, pur ceo qil nad pas fait tite pur luy en ceo brief.

(36.)² § Reynald de Mohoun et Elizabeth sa femme Assise de novele disseisine vers porterent une Assise de novele disseisine plusours en Cornewaille, quel fut ajourne en Baunk pur difficulte. Et un respondi par attourne, et pleda en barre. Et puis, a un autre jour, le defendant fist un autre attourne saunz remuer le primer. Le darrein³ attourne se profri a ore, et fut prest doier la reconisance dassise. Lautre attourne, leyne par soun garrant,⁴ pleda en barre come avant.—Skip. Vous veietz bien comment lattourne la partie plede al assise, par quei al plee lautre attourne qe chiet en arest dassise navoms mester de respoundre; et prioms lassise.—Grene. Quant lun attourne plede en arest dassise, et lautre plede al assise, le plee celi serra resceu qe plus est en avantage de son client, come en cas si un enfaunt deinz age soit enplede, un gardeyn plede en barre, et un autre gardeyn conust laccion, le plee celi qe plede en barre

Assise de
novele
disseisine.
[Fitz.,
Assise,
120.]

¹ L., drein.

² From H., and I., until otherwise stated, but corrected by the record, *Placita de Banco*, Easter, 20 Edw. III., R^o 193. It there appears that the Assise was originally brought before Justices of Assise in the county of Cornwall, by Reginald de Mohoun, knight, and Elizabeth his wife, against John Daune, knight, Henry Deneys, John Bereware, parson of the church of Cornwood, and Adam Bryan, in respect of 42 messuages, 4 mills,

22½ Cornish acres of land, 6½ acres of meadow, 100 acres of wood, 100 acres "jampnorum et brueræ," and £9 11s. 8½d. of rent in "Ammal" "Mur juxta Penpont, Tredradet" "juxta Etha, et Arwoythel juxta" "Restronget."

According to the roll, all the defendants appeared by attorney except Henry Deneys, and the Assise was awarded against him by default.

³ I., dreyn.

⁴ H., deigne garrant, instead of leyne par soun garrant.

No. 86.

A.D. 1846. in bar will be admitted, without having regard to the plea of the other; and so also will it be in this case, since the first attorney has not been removed, and his plea is more to the advantage of his principal than the plea of the other; therefore, &c. And moreover the one who now proffers himself as attorney in virtue of a later appointment is under age, and therefore you ought not to admit him as attorney.—But as to the last point the COURT adjudged him to be of full age.—SHARSHULLE. When a guardian or next friend answers for an infant under age, it is quite right that he should have the plea who may by intendment most properly be supposed to be pleading to the advantage of the infant; and that is by reason of the infant's tender age; but when a man of full age appoints his attorneys by several warrants, and one of them confesses my action and the other denies it, then, because my action is confessed by one who has warrant to do so, the law will not put me to answer to the plea given by the other, which is a traverse of my action; therefore, &c.—The assise was awarded on the plea which the later-appointed attorney had pleaded.—*Grene*, for another of the

No. 36.

serra resceu, saunz aver regard al plee lautre ; A.D. 1346. et auxi issi en ceo cas, puis qe le primer attourne nestoit pas remue, et son plee est plus en avantage de son mestre qe le plee lautre ; par quei, &c. Et auxi celi qe se profre ore come attourne de puisne fesaunce est deinz age, par quei vous ne li devetz resceivere come attourne.—Mes quant a ceo la Court lui ajuggea de pleyn age. —SCHARS. Quant un gardein ou procheyn amy respond pur enfaunt deinz age, il est bien reson qe celi eit le plee qe plus proprement par entendement purra estre suppose qe pleda en avantage del enfaunt ; et ceo est pur la tendresse de soun age ; mes quant homme de plein age fait ses attournes par several garraunt, et lun conust maccion, et lautre dedit, pur ceo qe maccion est conu par celui qad garraunt del faire la ley ne moi mettra pas a respoudre al plee qe lautre doune qest a travers de maccion ; par quei, &c.—Sur le plee qe lattourne ad plede lassise fut agarde.¹

¹ The pleas for the several defendants are not in the same order on the roll as in the reports, and there was a plea on behalf of John Bereware, in abatement of the writ, which does not appear in that form in either of the reports. It was as follows :—"quod prædicta Eliza-
" beth, quæ tunc questa fuit, alias
" coram Commissariis Episcopi
" Exoniensis secuta fuit in causa
" divortii inter ipsam et prædictum
" Reginaldum celebrati, supponens
" ipsam prius fuisse desponsatam
" cuidam Thomæ de Mohon, fratri
" ipsius Reginaldi, in qua quidem
" causa in tantum processum fuit
" quod divortium prædictum inter
" prædictos Reginaldum et Eliza-
" beth obcertas causas coram eisdem
" Commissariis probatas in forma
" juris celebratum fuit. Et post-
" modum super eadem causa

" diversa appella facta fuerunt
" usque ad Curiam Cantuariensem,
" et a Curia illa appellatum fuit ad
" Curiam Romanam, et ibidem in
" tantum processum fuit quod
" Dominus papa constituit Judices
" delegatos in negotio prædicto,
" videlicet, Episcopum Bathonien-
" sem et Wellensem, et Abbatem
" Glastoniensem, qui quidem
" Episcopus et Abbas constituerunt
" Abbatem de Boklonde et Abbatem
" de Tavystoke Judices subdele-
" gatos in negotio prædicto, coram
" quibus divortium prædictum
" approbatum fuit et ratificatum, et
" contractus prius inter prædictos
" Reginaldum et Elizabeth habitus
" omnino adnullatus fuit, unde petiit
" iudicium de illo brevi per quod
" supponebatur prædictam Eliza-
" beth tunc esse uxorem prædicti
" Reginaldi, &c." See below, p. 280.

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A.D. 1346. defendants, said that the plaintiff Elizabeth, together with one Henry her husband, released by fine to one A.,¹ all the right, &c., which Henry is still living, and by that fine she acknowledged herself to be wife of Henry, and this writ supposes that she is the wife of Reginald, which is contrary to the fine to which she was herself a party; judgment of the writ.—*Skipwith*. We say that you have nothing in the land, and that you are a stranger to the fine; judgment whether such a plea lies in your mouth.—*Grene*. It lies in the mouth of a disseisor to plead that the plaintiff is misnamed, and also to allege coverture in her if she takes the suit alone; and since we have alleged a fine to which she is a party, and by which she affirmed herself to be the wife of another person, who is still living, and they have not denied that fine, it is therefore not necessary that this coverture should be tried by the assise, since it is affirmed by her in a court of record.—*SHARSHULLE*. A disseisor will not be allowed to plead coverture in the

¹ For the real names see p. 275, note 2.

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—*Grene* pur un autre, dit qe Elizabeth qest pleintif A.D. 1346. ove un H.¹ son baron par fine releaserent a un A. tote le dreit, &c., le quel H.¹ est unquore en vie, par quel fine ele se conissoit estre la femme H.¹ et cest brief la suppose la femme R., qest a contrare del fine a quei ele mesme fut partie; jugement de brief.²—*Skip*. Nous dioms qe vous navetz rienz en la terre, et a la fine vous estes estraunge; jugement si tiel plee en vostre bouche qise.—*Grene*. En bouche de disseisour gist a pleder qe le pleintif est malement nome, et auxi dallegger couverture en luy si ele prent la sute soule; et de puis qe nous avoms allegge fine a quei ele est partie, par quele ele safferma autri femme, qest unqore en vie, la quele fine ils nount pas dedit, par quei il ne covent pas qe cele couverture soit trie par assise, quele en court de record par lui est afferme.—SCHARS. Disseisour navera pas de pleder couverture en la

¹ MSS. of Y.B., J.

² According to the record the plea on behalf of Adam Bryan was "quod alias in Curia domini Regis levavit quidam finis inter "prædictam Elizabeth et Henri- "cum Daney[sic] tunc virum suum. "querentes, et Johannem de Coly- "tone, personam ecclesiæ de Corn- "wode, deforciantem, de maneriis "de Rodemeke et Pennentinys, cum "pertinentiis, unde placitum Con- "ventionis summonitum fuit inter "eos in eadem Curia, per quem "finem prædicti Henricus et "Elizabeth recognoverunt prædicta "maneria, cum pertinentiis, esse jus "ipsius Johannis ut illa quæ idem "Johannes habuit de dono præ- "dictorum Henrici et Elizabeth, et "pro illa recognitione, &c., idem "Johannes concessit et reddidit "maneria illa, cum pertinentiis, "prædictis Henrico et Elizabeth,

"habenda et tenenda tota vita
"ipsius Elizabeth. Et post
"decessum ipsius Elizabeth præ-
"dicta maneria, cum pertinentiis,
"remanerent Johanni filio Nicholai
"Daune et heredibus suis in per-
"petuum Et dixit quod prædictus
"Henricus Daney[sic] ad tunc
"superstes fuit, et nominabatur in
"brevis unus defendentium, &c.,
"unde petit judicium, ex quo ipsa
"Elizabeth venit in præfata Curia
"domini Regis, et levavit finem
"prædictum simul cum prædicto
"Henrico, viro suo, et ibidem
"examinata fuit tanquam uxor
"prædicti Henrici, si idem
"Reginaldus et Elizabeth ad illud
"breve per quod supponebatur ipsam
"esse uxorem alterius quam præ-
"dicti Henrici responderi debeat,
"maxime cum idem Henricus
"ad tunc superstes fuit, ut superius
"allegatum fuit, &c."

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A.D. 1846. person of the plaintiff, and particularly to allege it to be of record when he has not the record in hand; for, if the record were denied, and he failed to produce it, the land would not be put any more in danger of loss; therefore it is not right that the plaintiff should be delayed by a plea on the decision of which he could not have any recovery on the principal matter.—*Thorpe*. It is not so; for a disseisor may allege that he was on a previous occasion acquitted of the disseisin even though he has not the record in hand, and, even though he fails to produce the record, the plaintiff is taken none the nearer to the attainment of his purpose; and so also in this case, since I make you privy to the fine, though I am a stranger, I shall plead it just as much as my previous acquittal of record.—*Greene*, as to another of the defendants, said:—He answers you as tenant, and tells you that assise there ought not to be, because Elizabeth, while she was sole, released to us while in possession all the right which she had, by this deed; judgment whether in opposition to that there ought to be an assise.—*Skipwith*. As to that we

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persone le pleintif, et nomement del allegger de A.D. 1346. recorde quant il nad pas le recorde en poygne; qar si le recorde fut dedit, et il failli de cele, la terre ne serra de plus pris en perde; par quei il nest pas resoun qe le pleintif soit delaie par plee sur quel il ne put nul recoverir sur le principal aver. — *Thorpe*. Il nest pas issi; qar disseisour alleggera qe autrefoith il fut acquite de la disseisine, mesqe il neyt pas le record en poygne, et mesqil faille del recorde, le pleintif nest nent le pluis pris a soun purpos; et auxi en ceo cas, puis qe jeo vous face prive a la fine, mesqe jeo soy estrange, jeo le pledra si avant come macquitaunce autrefoitz trove par recorde. — *Grene*, quant a un autre, il vous respond come tenant, et vous dit qe assise ne deit estre, qar Elizabeth, tancome ele fut soule, relessa en nostre possession tut le dreit qe ele avoit, par ceo fait; jugement si encountre ceo fait assise deit estre.¹

¹ According to the record the plea on behalf of John Dauneŷ was "quod tenementa in visu posita non sunt nisi triginta et sex mesuagia, tria molendina, decem et octo acræ terræ Cornubienses, et triginta acræ bosci, et octo libræ redditus tantum. Et quo ad viginti mesuagia, duodecim acras terræ, et sexaginta solidatas redditus, de tenementis prædictis, dixit quod tenementa illa sunt parcella manerii de Retradek, quod quidem manerium, cum pertinentiis, fuit in seisina cujusdam Adæ Bryan, clerici, qui quidem Adam per chartam suam de eodem manerio feoffavit ipsum Johannem et Sibillam uxorem ejus habendo et tenendo eisdem Johanni et Sibillæ et heredibus ipsius Johannis in perpetuum (Et protulit ibi prædictam chartam

"quæ hoc testabatur, &c.,)
"Et sic dixit quod ipse tenuit tenementa illa conjunctim cum prædicta Sibilla per chartam prædictam, et tenuit die impetrationis brevis, quæ quidem Sibilla non nominabatur in brevi, unde petiit judicium de brevi, &c. Et quo ad unum mesuagium, et medietatem unius acræ Cornubiensis, de residuo tenementorum prædictorum dixit quod eadem mesuagium et medietas acræ terræ, &c., sunt parcella manerii de Arwoythel, quo quidem manerio in seisina ipsius Johannis Dauneŷ existente, prædicta Elizabeth, quæ tunc quæsta fuit simul, &c., dum sola fuit, per nomen Elizabeth filis domini Johannis fitz William, per scriptum suum remisit, relaxavit, et in

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A.D. 1346. tell you that at the time of the execution of the deed she was the wife of this same Reginald; and we demand judgment, and we pray the assise.—*Grene*. You have confessed the deed, and your statement that you were the wife of Reginald at the time of its execution is not in formal words of law upon which issue can be taken without alleging coverture in you at that time; therefore the law does not put us to answer to this issue in avoidance of the deed.—*Skipwith*. We say that we were

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—*Skip*. A ceo vous dioms qa temps de la con- A.D. 1346.
feccion ele fust la femme mesme celuy Reynald; et
demandoms jugement, et prioms lassise.¹—*Grene*.
Vous avetz conu le fait, et ceo qe vous ditetz qe
vous futes la femme R. a temps de la confeccion,
ceo nest pas parole formele de lei sur quei prendre
issue saunz allegger couverture en vous adonques; par
quoi a cele issue de voidaunce la ley ne nous mette
a respondre.²—*Skeyp*. Nous dioms qe nous fumes la

"perpetuum quietum clamavit ipsi
"Johanni totum jus et clameum
"quod habuit, seu habere potuit,
"in manerio illo, cum pertinentiis.
"Et protulit ibi prædictum
"scriptum quod hoc idem testa-
"batur. . . . unde petiit judicium
"si contra scriptum illud assisa
"inde inter eos fieri deberet, &c.
"Et quo ad totum residuum tene-
"mentorum dixit quod prædictus
"Reginaldus per scriptum suum
"remisit, relaxavit, et in perpetuum
"quietum clamavit ipsi Johanni
"Dauney totum jus et clameum
"quod habuit, seu habere potuit
"in maneriis de Arwoythel,
"Retradek, Amalfur, Amalgros,
"et Amalogros, cum pertinentiis,
"de quibus maneriis eadem tene-
"menta sunt parcella, Et obligavit
"se et heredes suos ad warrantizan-
"dum ipsi Johanni et heredibus et
"assignatis suis in perpetuum. Et
"protulit ibi prædictum scriptum
"quod hoc idem testabatur, . . .
"unde petiit judicium si contra
"scriptum illud assisa inde inter
"eos fieri deberet."

There are on the roll pleadings
relating to John Dauney's plea of
joint-tenancy, which is not
mentioned in the reports. The
plaintiffs replied, as to the deed
of release attributed to Reginald,

"Non est factum, et hoc petierunt
"quod inquireretur per juratam
"loco assisæ et per [names] testes
"in eodem scripto nominatos."
Issue was joined on this.

¹ This pleading appears to be
represented on the roll as follows:
"Quo ad aliud scriptum sub
"nomine ipsius Elizabeth prolatum
"dixerunt quod ipsi non cognoscunt
"prædictum scriptum fieri tempore
"quo supponebatur per datam
"ejusdem, sed dixerunt quod ipsi
"virtute ejusdem scripti ab assisa
"præcludi non debuerunt, dixerunt
"enim quod tempore confeccionis
"ejusdem scripti eadem Elizabeth
"fuit uxor prædicti Reginaldi et
"elongata fuit ab eodem Reginaldo
"per prædictum Johannem Dauney
"et alios, et tempore illo, dum sic
"cooperta fuit et etiam elongata, ut
"prædictum est, fecit scriptum
"illud. Et hoc parati fuerunt
"verificare, unde petierunt
"judicium si ipsi virtute ejusdem
"scripti ab assisa præcludi
"deberent, &c."

² This pleading is represented on
the roll as follows:—"Et Johannes
"Dauney dixit quod ipse superius
"allegavit scriptum prædictum sibi
"factum fuisse per prædictam
"Elizabeth dum sola fuit, ad quod
"prædicti Reginaldus et Elizabeth

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A.D. 1346. the wife of Reginald at that time, and so covert ; ready, &c.—And upon that the other demanded judgment as before.—And now, in the Bench, *Grene* said, for the tenant, that to say that she was covert of Reginald at that time she shall not be admitted by way of avoiding the deed. The deed is confessed, and consequently the date. And we tell you (said *Grene*) that on the day which the date of the deed purports a divorce had been had between Elizabeth and Reginald,¹ and afterwards she together with Henry her husband released to one A., and in the fine by which she did so she affirmed herself to be the wife of Henry, and that at a later time than the date of the deed purports ; therefore to allege coverture of Reginald in her at a previous time you shall not be admitted.—*Husee*. You shall not be admitted to that, because we were adjourned on a certain point for judgment in this Court, and therefore you shall not be admitted to waive that point, and plead other new matter. And also, inasmuch as you pleaded at the commencement in bar against us as one who is now the wife of Reginald, you shall therefore not be admitted to allege a divorce between us, or to allege a fine by which we acknowledged ourself to be the wife of another person who is living, with the object of proving that we ought not to be admitted to say that we were the wife of Reginald,

¹ See p. 273, note 1.

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femme R. a cel temps, et issi coverte; prest, &c.¹—A.D. 1346.
 Et sur ceo lautre demanda jugement come avant.—
 Et ore, en Bank, *Grene* dit, pur le tenant, qe a dire
 qele fut coverte de R. adonques ele ne serra resceu
 par la manere de voidaunce de fait. Le fait est
 conu, et *per consequens* la date. Et vous dioms qal
 jour qe la date del fait purporte divors fut fait
 entre E. et R., et apres el od un H.² son baron
 relessa a un A., par quel fyne ele safferma la femme
 H.² et de puisne temps qe la date del fait ne
 purport; par quei dallegger couverture en luy de
 temps avant de R. ne serretz resceu.—*Husce*. A ceo
 navendrez pas, qar nous fumes adjournez sur certain
 point en jugement ceinz, par quei de weyver cele
 et de pledere autre matere de novel ne serretz
 resceu. Et auxi, par taunt qe vous pledez a
 comencement en barre vers nous come cele qest ore
 femme R., par quei dallegger divors entre nous, ou
 dallegger fine par quel nous conissames estre autri
 femme qest en vie, al entent de prover qe nous ne
 serroms pas resceu a dire qe nous fumes la femme

"non responderunt in evacua-
 "tionem scripti illius per verba in
 "lege terræ acceptanda, videlicet,
 "allegando quod ipsa Elizabeth
 "tempore confectionis ejusdem
 "scripti fuit cooperta de ipso
 "Reginaldo, viro suo, sed solum-
 "modo allegavit [sic] ipsam tunc
 "fuisse uxorem ipsius Reginaldi,
 "quod intelligi potest per legem
 "ecclesiasticam per contractum
 "matrimonii licet sponsalia non
 "fuissent celebrata in facie ecclesiæ,
 "per quod non intendebat quod
 "responsio illa sufficiens fuit, &c.,
 "unde petiit judicium, ut prius, si
 "contra scriptum illud assisam
 "habere deberent, &c., Et, si
 "videretur Curie quod responsio
 "illa sufficiens esset per legem

"terræ acceptanda, paratus fuit
 "satis dicere in manutentionem
 "scripti &c."

¹ This pleading is represented on
 the roll (which however is torn and
 defective) as follows:—"Et præ-
 "dicti Reginaldus et Elizabeth
 "dixerunt quod ex quo prædictus
 "Johannes Dauney
 "Elizabeth fuisse uxorem ipsius
 "Reginaldi tempore confectionis
 "scripti prædicti m
 "est, et petierunt judicium, ut
 "prius, si ipsi virtute scripti præ-
 "dicti si videre
 ". . . . illa non esset
 "sufficiens ad scriptum illud
 "evacuandum, parati fuerunt satis
 "dicere, &c."

² MSS. of Y.B., J.

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A.D. 1346. since you have accepted the reverse on this original writ.—Therefore *Grene* said that she was sole at the time of the execution of the deed; ready, &c.—And the other side said the contrary.—And, as to the plea delivered by the disseisor in abatement of the writ on the ground of the fine by which she acknowledged herself to be the wife of another person, it was adjudged that this plea did not lie in his mouth, because she was not tenant, and the assise was awarded against him.

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R., puis qe en cest original avez accepte le revers, A.D. 1346.
ne serretz resceu.—Par quei *Grene* dit qele fut soule
a temps de la confeccion, prest; &c.—*Et alii e*
contra.—Et, quant al ple livre par le disseisour en
abatement de brief par la fyne par quele ele se
conissoit estre autri femme, fut agarde qe ceo plee
ne geust pas en sa bouche, pur ceo qele nest pas
tenant: et lassise agarde vers luy, &c.¹

¹ The conclusion of the case on the roll is as follows:—" Et, quoad
" prædictum divortium et etiam
" quoad prædictum finem per præ-
" dictos Johannem Bereware et
" Adam separatim superius alle-
" gata, prædicti Reginaldus et
" Elizabeth, protestando quod ipsi
" non cognoverunt aliquod hujus-
" modi divortium nec aliquem
" hujusmodi finem levatum fuisse
" nec prædictum Henricum unquam
" fuisse virum ipsius Elizabeth,
" dixerunt quod prædicti Johannes
" Bereware et Adam nihil
" habuerunt in tenementis in visu
" positus, immo prædictus Johannes
" Dauney fuit ad tunc tenens de
" eisdem, et fuit prædicto die
" impetrationis brevis Et idem
" Johannes Bereware non fuit pars
" in prædicta causa divortii per
" ipsum allegatam, nec prædictus
" Adam pars nec heres partis
" finis prædicti, nec etiam iidem
" Johannes et Adam aliquid de
" recordo Curie ostenderunt testi-
" ficans allegationes suas prædictas,
" per quod in ore ipsorum non
" jacuit per hujusmodi placitum
" breve istud cassare, maxime cum
" placitum illud in nullo se extendit
" ad excusandum personas suas de
" disseisina prædicta, nec etiam ad
" formam brevis, &c., unde petierunt
" iudicium si in ore ipsorum jaceret

" hujusmodi placitum placitare Et
" si videretur Curie quod hujus-
" modi placitum in ore ipsorum
" jaceret parati fuerunt ad ea
" respondere, &c. Et petierunt
" quod assisa consideraretur
" capienda versus eos, &c.

" Et Johannes Bereware et
" Adam singillatim dixerunt quod,
" quamvis ipsi non fuissent
" tenentes tenementorum in visu
" positorum, nec partis eorundem,
" ipsi tamen nominabantur in brevi
" defendentes, versus quos prædicti
" Reginaldus et Elizabeth inten-
" debant damna recuperare, per
" quod videbatur eis quod ad
" exonerandum ipsos de damnis ad
" hujusmodi placitum ad breve
" cassandum admitti debuerunt,
" maxime cum placitum illud in
" nullo se extendit ad liberum
" tenementum sed ad cassationem
" brevis. et, quamvis ipsi non
" fuerunt partes prædictorum
" divortii et finis, ipsi tamen parati
" fuerunt illa verificare qualiter,
" cumque Curia consideraverit,
" unde petierunt iudicium si
" responsiones prædictæ in ore
" ipsorum non fuissent accept-
" anda."

Then comes an adjournment
before the same Justices at
Westminster, and eventually one
into the Common Bench. The

No. 36.

A.D. 1846. § An Assise of Novel Disseisin was brought in
 Assise of Novel Disseisin Cornwall against several persons by one A.¹ and his
 wife. One of the defendants, as tenant, pleaded in
 bar on the ground that the wife who was plaintiff
 released, &c., while she was sole. To this the
 plaintiff said that she was her husband's wife at
 the time of the execution of the release, but without
 acknowledging the date. And it was replied that
 this plea, without the addition of the words "and
 covert," was not admissible, and could not be tried
 by the words "wife or not wife." Another defendant,
 who was not tenant, said that on another occasion
 this same B.,² who is now plaintiff, as the wife of
 one W.,² which W.² is still living, together with W.²
 rendered certain tenements to a certain person by
 fine, and the defendant had W.'s estate, and demanded
 judgment of this writ, by which she was supposed
 to be the wife of A.² To this it was replied that, since

¹ For the names of the parties,
 see p. 271, note 2.

² For the names, see p. 275,
 note 2.

No. 36.

§ *Assisa*¹ *Novæ Disseisinæ*, en Cornewaille,² vers A.D. 1346. plusours, par un A. et sa femme. Un come tenant *Assisa* *Novæ* *Disseisinæ*. pleda en barre pur ceo qe la femme pleintif tanqe come ele fuit sole relessa, &c. A qai le pleintif dit qele fuit sa femme al temps de la confeccion, nient conissaunt la date. Et fuit replie qe cele plee, sil nust dit et covert, nest pas acceptable, ne triable par cele paroule de femme ou nient femme. Un autre, qe nest pas tenant, dit qautrefoith qe mesme ceste B. qest³ ore pleintif, comme femme un W., quel W. est unqore en pleine vie, ensemblement ove W., rendirent certeinz tenementz a un par fine,⁴ qi estat il ad, et demanda jugement de ceo brief par quel est⁵ suppose estre la femme A. A qai fuit

proceedings there were as follows:—

"Johannes Bereware, quæsitus
"per Curiam si aliquid sciat dicere
"quare assisa ista remanere debet,
"&c., dicit quod non. Ideo quo ad
"eum capiatur assisa, &c.

"Et Johannes [Dauney] dicit,
"sicut alias dixit, quod prædicta
"Elizabeth, dum sola fuit, per
"scriptum suum remisit et quietum
"clamavit ipsi Johanni Dauney
"totum jus et clameum quod
"habuit in prædicto manerio de
"Arwoythel, et profert hic præ-
"dictum scriptum quod hoc testa-
"tur, &c., unde petit judicium si
"ipse Reginaldus et Elizabeth
"contra factum ipsius Elizabeth
"assisam inde versus eum habere
"debeant, &c.

"Et Reginaldus et Elizabeth
"dicunt quod tempore confectionis
"prædicti scripti ipsa Elizabeth
"fuit uxor prædicti Reginaldi
"elongata de eo Reginaldo, viro suo,
"sicut ipsi superius asserunt. Et
"hoc parati sunt verificare per
"assisam, &c. Et petunt judicium
"et assisam, &c.

"Et Johannes Dauney dicit quod
"tempore confectionis prædicti
"scripti præfata Elizabeth non fuit
"uxor prædicti Reginaldi, sicut
"iidem Reginaldus et Elizabeth
"dicunt. Et de hoc ponit se super
"assisam. Et Reginaldus et
"Elizabeth similiter.

"Ideo capiatur jurata loco assisæ.
"&c.

"Et quia data prædicti scripti
"quod prædictus Johannes Dauney
"protulit sub nomine prædicti
"Reginaldi est de data apud
"Nortone in Comitatu Devonie,
"et etiam prædicti testes de
"eodem comitatu, &c., præceptum
"est eidem Vicecomiti Devonie
"quod venire faciat hic in Octabis
"Sanctæ Trinitatis prædictos
"testes, et præter illos xij, &c., de
"visneto de Nortone, per quos,
"&c."

¹ This report of the case is from
L., and C.

² MSS. of Y. B., Devone.

³ qest is omitted from C.

⁴ The words par fine are omitted
from C.

⁵ C., ele.

No. 36.

A.D. 1346. that defendant had nothing in the tenancy, and also was a stranger to the fine, the plea did not lie in his mouth. A third defendant pleaded another plea. And they were adjourned upon the whole matter into the Bench. There the third defendant appeared by attorney, who said that he was ready to hear the verdict of the assise.—*Grene*. There is as his attorney here another person in our case, and we are of counsel for him, and that other attorney was in his first plea which was pleaded in the country, and since this person is acting in covin with the plaintiff, it is not right that he should be heard to the damage of his principal, when the other is in Court, and wishes to act for the benefit of his principal, and to abate the plaintiff's writ.—*SHARSHULLE*. We record that this one is attorney, and he says nothing wherefore the assise shall not be had, and, even though there be another attorney, we have no regard to that which he says.—*Thorpe*. Suppose one attorney were willing to render the land of his principal, and another wished to defend it, would you not admit the one who would defend the land? And if a demandant has two attorneys, and one wishes to confess a release which is pleaded in bar, and the other wishes to deny it, will you not admit the plea of the one who makes the best plea for his principal?—*SHARSHULLE*. The cases are not alike.—And *SHARSHULLE* said, and the Court also, with regard to this matter, that it was not necessary for one who was to be guardian of an infant under age to have a warrant, even though he were tenant and wished to plead in bar, because the Court will of itself appoint and accept a guardian.—*STONORE*. As to this point you are on the assise, and, as to the other point touching the defendant who has nothing in the tenancy, it would be hard to prove that, when a tenant of the land has affirmed the writ to be good, by such a supposition of a fine to which he is a stranger, he would abate the writ.—

No. 36.

replie qe¹ puis qil nad rienz en la tenance, et A.D. 1346.
 auxint est estrange a la fine, qe cele plee en² sa
 bouche ne git pas. Le terce pleda autre plee. Et
 furent adjournez sur tut en Baunk, ou le terce
 apparust par attourne, et dit qil fuit prest doier la
 reconisaunce.—*Grene*. Il y ad soun attourne cy un
 autre devers nous, et sumes de soun counseille, et
 fuit en³ soun primer plee plede en pays,⁴ et coment qe
 celui soit del covyn le pleintif, il nest pas resoun
 qil soit escote en damage de soun mestre, quant
 autre est en Court, et voet faire le profit soun
 mestre, et abatre le brief le pleintif.—*SCHAR*. Nous
 recordoms qe celui est attourne, et il ne dit rienz
 pur qai assise ne se fra, et, tut soit autre attourne,
 nous navoms nulle regarde a ceo qil dit.—*Thorpe*.
 Jeo pose qun attourne voet rendre la terre soun
 mestre, et un autre la voet defendre, ne resceiveretz
 vous celui qe voet defendre la terre? Et si un
 demandant eit deux attournes, et lun voet conustre
 le relees qest plede en barre, et lautre voet dedire
 le, ne resceiveretz vous le plee de celui qe meuth
 plede pur soun mestre?—*SCHAR*. *Non est simile*.—Et
SCHAR. dit, en ceste matere, et la Court auxint, qe
 celui qe serra gardein pur enfant deinz age ne
 bosoigne⁵ pas daver garraunt, tut soit il tenant et
 voet pleder en barre, qar la Court fra⁶ et acceptera
 gardeyn de luy mesme.—*STON*. Quant a ceo cy vous
 estes al assise, et, quant al autre point celui qe nad
 rienz en la tenance, il serreit fort a prover qe,
 quant tenant de la terre ad afferme le brief boun,
 par tiel supposer dune fine a quel il est estrange,
 qil abatereit le brief.—*Grene*. Jeo pose qil volleit

¹ C., de.² C., est.³ en is omitted from C,⁴ The words en pays are omitted from C.⁵ C., bussoigne.⁶ fra is omitted from C.

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A.D. 1346. *Grene*. Suppose he wished to say that she is the wife of W., and not the wife of A., it is certain that he would have that plea, notwithstanding the fact that he has nothing in the tenancy; for the same reason he will also have this plea by matter of record.—*SHARSHULLE*. No, he is a stranger, and that plea of which you speak must go to the country in some form.—*Grene*. Certainly not.—*STONORE*. What would happen if the record were denied, and you failed to produce the record?—*Grene*. There would be just the same mischief if he were privy to the fine, and were to plead in such a manner; and an infant under age can plead a record in bar, and, even though he fail to produce the record, the land will not be lost.—*STONORE* awarded the assise against him.—*Grene*. With regard to the third point, we have taken the objection that he has not avoided the release by a plea which is admissible.—*SHARSHULLE*. He says that she was his wife, and covert of him, and even though he were not to express that word “covert,” we hold the other expression to be sufficiently good, that is to say “wife.”—*Grene*. Then we say:—Not covert of him, nor his wife, at the time of the execution of the deed; ready, &c.—*Huse*. You must say that she was sole.—*WILLOUGHBY*. No, the plea came from you that she was your wife, and covert of you, and therefore the traverse will be taken in that manner. *Huse*. Is not his plea that she released when sole? Therefore he must maintain that.—*WILLOUGHBY*. No, he has met you.—*Huse*. Our wife, and covert of us; ready, &c.—And the other side said the contrary.—And the assise was remanded in respect of the whole matter.—And it was said in this plea that one who has nothing shall not in an Assise be permitted to delay the assise by any record, whatsoever it may be, and that, if a defendant wished to allege outlawry in the plaintiff's person, he must have the record ready, &c.

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dire qele est la femme W., et¹ noun pas la femme A.D. 1346.
 A., *certum est* qil avera le plee, *non obstante* qil nad rienz en la tenaunce; par mesme la resoun ceo plee par recorde.—SCHAR. Nanille, il est estrange, et en asqun pays il faudra de ceo plee com vous parletz.—GRENE. Nanille, certes.—STON. Qai avendreit si le recorde fuit dedit, et vous faillistetz² del recorde.—GRENE. Mesme le meschief serreit sil fuit prive a la fine, et pledast par tiele manere; et un enfant deinz age pledera en barre par recorde, et, tut faillist il del recorde, la terre ne serra pas perdu.—STON. agarda lassise vers luy.—GRENE. Nous avoms challenge de ceo qil nad pas voide le relees par plee acceptable quant al terce point.—SCHAR. Il dit qele fuit sa femme et covert de luy, et, tut ne deist il pas cele parole covert, nous tenoms lautre assetz boun,³ saver, la femme.—GRENE. Donques dioms qe nient covert de luy, ne sa femme, al temps de la confeccion; prest, &c.—HUSE. Vous dirretz qe sole.—WILBY. Nanylle, le plee vint de vous qe vostre femme, et covert de vous, par qai par cele manere serra le travers pris.—HUSE. Nest son ple qele sole releessa? Par qai cella covient il maintenir.—WILBY. Nanille, il vous ad servy.—HUSE. Nostre femme, et covert de nous; prest, &c.—*Et alii e contra*.—Et lassise remaunde de tut.—Et fuit parle en ceo plee qe celuy qe rienz ad en Assise ne serra pas resceu a delaier assise par qecunqe⁴ recorde qe⁵ ceo fuit, et, sil volleit allegger utlagerie en la persone le pleintif, il coviendreit aver recorde prest, &c.

¹ et is omitted from C.² C., faussissates.³ boun is omitted from C.⁴ C., qicunqe.⁵ qe is omitted from L.

No. 37.

A.D. 1246. (37.) § The King brought a *Quare impedit* against the Bishop of Norwich, and counted that King John was seised of the advowson and presented, which King John aliened the advowson to one R.¹ to hold of him and of his heirs, and this R. in the time of the King the father² of the present King, aliened the advowson to the predecessor of this Bishop and his successors for ever, and therefore the right to present accrued to the King the father. And from the King the father (Edward II.) he made the descent to the present King (Edward III.). And so he said it belonged to the King to present.—*Moubray*. You see plainly how the King, in his declaration, takes divers causes for presenting:—one in that his tenant aliened without license, another the alienation in mortmain.—And this exception was not allowed.—*Moubray*. We tell you that the Bishop and his predecessors have held the advowson from time whereof memory runs not, *absque hoc* that the presentee of King John was admitted or instituted by the Bishop on his presentation, and *absque hoc* that the advowson was held of the King *in capite*, and *absque hoc* that the advowson was aliened to our predecessor by R.; ready, &c.—*Grene*. You see plainly how he has tendered divers issues against the King, which are not admissible, and therefore we pray a writ to the Bishop.—*Skipwith*. We do not take any new matter of ourselves, but all that we say is a traverse of your count; for, if we were to take issue on one point, the others would be held as not denied by us; therefore, on account of the mischief, we must have them all, and you can elect, on behalf of the King, the plea on which to take issue, and the others will be saved to you by way of protestation.—*SHARSHULLE*. He gives you an advantage inasmuch as he has traversed all the

¹ To the Prior of St. Bartholomew, | ² The grandfather (Edw. I.)
Smithfield, according to the record. | according to the record.

No. 37.

(37.)¹ § Le Roi porta *Quare impedit* vers Levesqe A.D. 1346.
 de Norwitz, et counta coment le Roi J. fust seisi *Quare*
 del avowesoun et presenta, le quel Roi J. aliena *impedit.*
 lavowesoun a un R. a tener de luy et de ses *[Fitz.,*
 heirs, le quel en temps le pere le Roi qore est *Issue,*
 aliena lavowesoun al predecessour cesti Evesqe et *31.]*
 ses successeurs a touz jours, par quei acrust al Roi
 le pere a presenter. Et de lui fit la descente al
 Roi qore est: et issi appent, &c.—*Moubray*. Vous
 veiez bien coment le Roi prent en sa demoustraunce
 divers causes a presenter: un par taunt qe soun
 tenant aliena saunz licence, un autre lalienacion en
 morte meyn.—*Et non allocatur*.—*Moubray*. Nous vous
 dioms qe Levesqe et ses predecessours ount tenu
 lavowesoun de temps dount memore ne court, saunz
 ceo qe le presente la Roi J. fut resceu ou institut
 de Evesqe a son presentement, ou saunz ceo qe
 lavowesoun fut tenu du Roi en chef, ou saunz ceo
 qe lavowesoun fut aliene a nostre predecessour par
 R.; prest, &c.—*Grene*. Vous veietz bien coment il
 tendi divers issues vers le Roi, queux ne sount pas
 receyvables, par quei nous prioms brief al Evesqe.—
Skip. Nous ne pernomms nulle nouvelle matere de
 nous mesmes, mes quanqe nous parloms est a
 travers de vostre counte; qar, si nous preissons
 issue sur un, les autres serront tenuz a nent dedit
 de nous; par quei, pur le meschief, il covent qe
 nous eioms trestouz, et vous poietz eslire, pur le
 Roi, de prendre issue de plee, et les autres vous
 serront sauvez pur protestacion.—*SCHARS*. Il vous
 fait avantage en taunt qil traversa trestouz, qar il

¹ From H., and I. This is another report (continued somewhat further) of Y.B., Hil., 20 Edw. III., No. 31, and the record is among the *Placita de Banco*, Hil., 20 Edw. III., R° 331, d.

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A.D. 1346. points, because he gives you the advantage of taking issue on which of them you will; therefore consider.—*Grene* offered to aver every point of his count.—*Skipwith*. You can join issue only on one point.—*Grene*. As largely as you have tendered the issues so largely shall I have to maintain them, and particularly on behalf of the King, because, if one of the points were to be found in favour of the King, and the others against him, the King would still attain his purpose; therefore we cannot be restricted to one point alone, since he has tendered an averment in respect of all of them.—*SHARSHULLE* said to *Moubray* that he must tender issue of the plea on one point, and make protestation on the other points.—Therefore *Moubray* said that the parson was not admitted on the presentation of King John; and, with regard to the other points, he made protestation that he did not confess them.—*Thorpe*. Now we will return to our case for the King. Since he tendered divers peremptory pleas as his answer to the King, whereas one would have availed him, and he could have made protestation on the others, as he now does, he has therefore now come too late to restrict himself to that one; and we demand judgment for the King.—*HILLARY*. To that answer which he gave including several members you replied with reference to all the points; and because the Court was of opinion that you could not have issue on them all, the Court would have put you to elect one out of them all for the King, and you would not do so, but wished to have the averment on them all; therefore, as you failed to do that, we said to him that he must elect the issue on a certain point, and so he has done; and therefore it seems that, in accordance with the manner of this plea, he may well enough restrict himself to this issue.—And they were adjourned, &c.

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vous donne lavantage de prendre issue sur quel que vous voillez ; par quei avisez vous.—*Grene* tendi daverer chescun point de son counte.—*Skip*. Vous rejoindrez mes sur un point.—*Grene*. Auxi largement come vous avetz tendu les issues auxi largement avera jeo de les meyntener, et nomement pur le Roi, qar si un des pointz fut trove pur le Roi, et les autres encontre luy, unqore avereit le Roi son purpos ; par quei nous ne pouns sur un point relier, puis qil les ad touz tendu daverer.—*SCHARS*.¹ dit a *Moubray* qil luy covent tendre issue de plee sur un point, et faire protestacion sur les autres pointz.—Par quei il dit qe la persone ne fut pas resceu al presentement le Roi ; et des autres pointz il fit protestacion qil ne les conissast pas.—*Thorpe*. Ore voloms retourner pur le Roi. Puis qil tendi divers peremptores pur respons vers le Roi, ou un lui pout aver value, et aver fait protestacion sur les autres, come ore fait, par quei a ore trop tard est il venu de relier sur luy ; et demandoms jugement pur le Roi.—*HILL*. Encountre cel respons qil dona de divers membres vous rejoinastes a touz les pointz ; et pur ceo qe avis fut a la Court qe vous ne purrietz aver issue sur touz, la Court vous voleit aver mys daver eslieu lun de touz pur le Roi, et vous nel voudrietz,² mes voudrietz² aver eu laverement sur touz ; par quei, en defaute de vous, nous deismes a luy qil eslieust³ lissue sur un certeyn point, et si ad il fait ; par quei il semble solonc⁴ le maner de cel plee il avera de relier sur ceste issue assetz bien.—Et adjornantur, &c.⁵

¹ H., *Skip*.² H., *voderetz*.³ H., *eslut*.⁴ H., *solom*.⁵ For the conclusion of the case as it appears upon the record, see above Hil., No. 31, p. 105, note 5.

No. 38.

A.D. 1346. (38.)¹ § John de Stonore and John his son brought
 Trespass. a writ of Trespass against an Abbot, and counted
 that they were lords of the manor of Ermington, and
 said that the river Erme takes its course towards the
 sea through their manor, so that the said river is
 parcel of the said manor, and, this notwithstanding,
 the defendant came and fished in the river aforesaid
ibidem, and took and carried off fish, to wit, bream
 and pike.—*Rokel*. Judgment of the writ: for you
 see plainly how he has by his writ assigned the
 trespass as being committed in the Erme, which is
 supposed by his count to be a river, which river
 extends into divers vills, to wit, K., P., and R.,² and
 he has not determined in which of the vills the
 trespass was committed; judgment.—*Skipwith*. We

¹ For a similar case in which
 John de Stonore was plaintiff, *see*
 above No. 32 in this term.

² For the names of the vills, *see*
 p. 295, note 5.

No. 38.

(38.)¹ § Johan de Stonore et Johan son fitz² A.D. 1346. porterent brief de Trespas vers un Abbe, et^{Trans.} counterent qils furent seignurs del maner de E., et dit qe la rivere de E.³ prent soun cours de la miere par mie son maner, issi la dite rivere est parcele del dit maner, la vient le defendant et en la rivere avandite *ibidem* pescha, et pessouns, saver, bremes et lucas, &c., prist et enporta.⁴—*Rokel.* Jugement du brief: qar vous veietz bien coment il ad assigne par son brief le trespas estre faite en E.,⁵ qest suppose par son compte une rivere, quele rivere seent en divers villes, saver, K. P. et R., et il nad pas determine en quel des villes le trespas se fist; jugement.⁵

¹ From H., and I., until otherwise stated, but corrected by the record, *Placita de Banco*, Easter, 20 Edw. III., R^o 84. It there appears that the action was brought by John de Stonore, and John his son, against William, Abbot of Buffestre (the modern Buckfastleigh), and several others.

² H., fitz.

³ MSS. of Y.B., A.

⁴ The plaintiffs alleged in the writ that "cum iidem Johannes de Stonore et Johannes filius ejus teneant manerium de Ermyntone, cum pertinentiis, ipsique et omnes alii manerium prædictum tenentes quandam ripariam ibidem vocatam Erm tanquam parcellam maerii illius usque in altum mare, mari tam affluente quam defluente, absque hoc quod aliquis alius in eadem riparia piscari deberet, &c., a tempore quo non extat memoria, pacifice tenuissent et habuissent, prædicti Abbas [and the others] in riparia prædicta vi et armis piscati fuerunt, et piscem inde ad valentiam centum librarum ceperunt et

"asportaverunt." In the declaration the fishes taken are stated to be "salmones . . . bramos, "mullettos, et alios diversos pisces," and it is added that the defendants "ingenia ipsorum Johannis de Stonore et Johannis filii ejus ibidem posita pro pisce capiendo extirpaverunt et frugerunt."

⁵ The plea in abatement of the writ was, according to the record, "quod, cum prædicti Johannes de Stonore et Johannes filius ejus per breve suum supponant quod ipsi tenent prædictum manerium de Ermyntone, ipsique et omnes alii manerium illud tenentes quandam ripariam ibidem vocatam Erm tanquam parcellam ejusdem manerii usque ad altum mare, non supponendo ripariam illam esse in aliqua villa, dicunt quod riparia illa se extendit in diversis villis, videlicet in Flete, Denmarle, Holbeaton, Backisburghe, Orcharton, et Kyngestone, et aliis diversis villis, et in eodem brevi non inseritur in qua villa riparia illa sit, unde petunt "judicium de brevi, &c."

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A.D. 1346 have supposed the trespass to have been committed in the Erme, and we have supposed by our count that the Erme is parcel of the manor of Ermington, and we have said that you fished in the Erme, which is to be understood to be in parcel of the manor, and so the writ is sufficiently definite; judgment.—*Mutlow*. We have alleged that the river extends into divers vills, which fact is not denied by him, and, in that case, if we were at issue, neither the Court nor the Sheriff would know from what neighbourhood the jury should come.—*Thorpe*. If an Abbot brings a writ of Trespass in respect of trees cut down within his Abbey, the writ is good without mention of any particular vill; so also in this case, since we have supposed the trespass to have been committed in the Erme, which is a river, and we have supposed by our count that the place in which the trespass was committed is parcel of the manor, that is sufficient, because the jury will come from that neighbourhood.—And they were adjourned, &c.

Trespass. § John de Stonore and John his son brought a writ of Trespass against the Abbot of Buckfastleigh, supposing themselves to be lords of the manor of Ermington, and supposing that the river Erme, flowing and ebbing as far as the high-sea, is parcel of their manor, within which they have a free fishery, and that the Abbot had fished there.—*Mutlow*. This is a writ of Trespass, and ought to be brought in a vill, and we tell you that the river extends into several vills (and he mentioned them by name); judgment of this writ which is not brought in a vill or in a hamlet.

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—*Skip.* Nous avoms suppose le trespas estre fait A.D. 1346 en E.,¹ et avoms suppose par counte E.¹ estre parcelle del maner de E., et avoms dit qe vous peschastes en E.,¹ qest a entendre en le parcel del maner, et issi le brief assetz en certain; jugement.²

—*Muttl.* Nous avoms allegge qe la rivere sestent en divers villes, quele chose nest pas dedit de luy, en quel cas, si nous fuissoms a issue, Court ne saveraeit ne Vicounte de quel visne pais vendra.—*Thorpe.* Si un Abbe porte brief de Trespas des arbres copes deinz sa Abbeye, le brief est bon, sanz doner certain ville; auxi de ceste part, puis qe nous avoms suppose le trespas estre fait en E.¹ qest rivere, et lavoms suppose par counte cel lieu ou le trespas se fist estre parcelle del maner, assetz suffist, qar de cele visne pays vendra.—*Et adjornantur, &c.*³

§ Johan⁴ de Stonore et Johan soun fitz porterent TRANS. brief de Trans vers Labbe de B., supposaut qils sount seignours del maner de E., et qe la River de E., folaunt et refolaunt tanqen le haut mere, est parcelle de lour maner, deinz quel ils ount fraunk⁵ pescherie, et qe Labbe illoeqes ad pesche.⁶—*Muttl.* Cest un brief de Trans, et duist estre porte en ville, et vous dioms qe la River sestent en plusours villes, et les noma; jugement de ceo brief qe nest porte en ville nen hamelle.

¹ MSS. of Y.B., A.

² The replication was, according to the record, "quod cum prædictus Abbas et alii in responsione sua non dedicunt quin prædicta riparia est parcella prædicti manerii de Ermyntone, quod manerium est in villa de Ermyntone, quod de jure intelligi non potest esse in aliam villam [sic], nec dedicunt quin ipsi in riparia illa piscati fuerunt, sicut iidem Johannes et Johannes superius

"queruntur, et nihil aliud ad istud breve de transgressione de injuria sua excusanda allegant, licet sæpius per Curiam requisiti, petunt judicium et damna sibi adjudicari."

³ Several adjournments appear upon the roll, but nothing further.

⁴ This report of the case is from L., and C.

⁵ C., franchise.

⁶ MSS. of Y.B., pescherie.

No. 39.

A.D. 1346. (39.) § A man prayed aid on the ground that the land had been rendered to him by fine for term of life, with remainder in fee tail to the person of whom he prayed aid, and he was ousted from the aid.—*Quere* the reason of the difference that in a case in which a reversion is granted in tail by deed *in pais* he will have aid, and yet a fine gives an immediately vested right without attornment as much as attornment gives it when the grant is by deed *in pais*.—And afterwards he prayed aid of the same person and of her parcener as of those who were the right heirs of the tenant for term of life, to which right heirs a remainder in fee simple was limited.—*Seton*. You cannot be admitted to that, because at the beginning you prayed aid of one whom you supposed to have the reversion alone, and therefore to pray aid now of others, supposing the reversion to be to them in common, you shall not be admitted.—*STOUFORD, ad idem*. Since the remainder in fee simple has not yet arrived by reason of the fee tail which is still in existence, it would be a strong measure to have aid of them until the fee tail is at an end.—*Grene*. We have seen it adjudged within the last two years that a person to whom a remainder in fee tail was limited by fine should be admitted to defend; and yet he could not have a writ of Entry *in consimili casu*; therefore in accordance with the law to the effect that he should be admitted to defend we should in like manner have aid of him.—And because he could not have aid by reason of the remainder in tail, and the remainder in fee simple has not yet arrived, he was therefore ousted from aid.—And afterwards he vouched, and was admitted to do so.

Dower. § Dower. Aid was prayed by tenant for term of life of one M., to whom and to the heirs of her body, &c., a remainder was limited by fine after the

No. 39.

(39.)¹ § Un homme pria eide pur ceo qe la terre A.D. 1346.
 lui fust rendu par fine a terme de vie, le remeindre Eide.
 a celi de qi il pria eide en fee taille, et fut ouste
 del eide.—*Quære causam diversitatis*, qen cas qe
 reversion est graunte en taille par fait en pays il
 avera leide, et fyne doune droit immediate vestu
 saunz attournement auxi bien come fait attournement
 par fait en pays.—Et apres il pria eide de mesme
 celi et de sa parcenere come de ceux qe furent
 dreits heirs le tenant a terme de vie, a queux dreits
 heirs remeindre de fee simple fut taille.—*Setone*.
 Vous navendrez pas, pur taunt qe vous priastes eide
 a comencement del un, supposant lui soul aver la
 reversion, par quei ore a prier eide dautres, supposant
 la reversion a eux en comune ne serrez resceu.—
Stour. ad idem. Puis qe le remeindre de fee simple
 nest pas unqore venu pur la taille qe demoert, il
 serreit fort daver eide de eux taunqe la taille fut
 termine.—*Grene*. Nous avoms veu deinz ces ij aunz
 ajugge qe celi a qi remeindre fut taille par fine en
 fee taille fust resceu, &c.; et unquore ne poet il pas
 aver brief dentre *in consimili casu*; par quei par
 autiel lei qil serreit resceu nous averoms eide de
 lui.—Et pur ceo qe par cause del remeindre taille
 il navera pas eide, et le remeindre de fee simple
 nest pas unquore venu, par quei il fut ouste del
 eide.—Et puis il voucha, et resceu, &c.

§ Dower.² Eide prie par tenant a terme de vie Dower.
 dun M., a qi le remeindre fuit taille apres soun
 decees et les heirs de soun corps, &c., par fyne.—

¹ From H., and I., until other-
 wise stated.

² This report of the case is from
 L., and C.

No. 40.

A.D. 1346. death of the tenant for life.—*Seton*. You are praying aid of one who has nothing, and who by possibility never will have anything, and therefore aid of her is not grantable.—*Birton*. A right is now vested by the fine, and if a reversion in fee tail, after the death of the tenant for term of life, is granted, aid of the reversioner is grantable; for the same reason it is grantable of one in remainder, particularly when his estate is by fine.—And by judgment he was ousted from the aid.—As to another parcel he showed that he purchased jointly with H. Gernet, by fine, to hold to him and the heirs of H., and he prayed aid of the heirs of H.—*Seton*. H., at the time of his death, had nothing in the reversion, nor fee, nor right; ready, &c.—*HILLARY*. You do not deny that he was purchaser by the fine, which proves the inheritance to have been in H., and therefore let him have the aid.—*Birton*, with regard to the aid first prayed, said that a fine was levied as above, and with a remainder, in default of issue between husband and wife, to the right heirs of H. And M., of whom we have prayed aid (continued *Birton*) is one of those heirs, and we pray aid of this M. by reason of the limitation of the fee simple which abides in her.—*STOUFORD*. You cannot have aid by reason of two rights, and, notwithstanding the first right, you are ousted by judgment, and you shall not have aid of M. by reason of the right in fee simple without her co-heirs.—Afterwards he prayed aid of M. and her co-parceners, but was ousted.

Attach-
ment on
Prohibi-
tion.

(40.) § Attachment on Prohibition was sued against two persons supposing that they had sued in Court

No. 40.

Setone. Vous prietz eide de cely qe rien nad. et A.D. 1346.
 par possiblete jammes navera, par qai de luy eide
 nest pas grantable. — *Birtone.* Dreit est vestu
 maintenant par la fyne, et si reversion soit grante,
 apres le decees del tenant a terme de vie, en fee
 taille, eide de celuy en la reversion est grantable;
 par mesme la resoun de celuy en le remeindre,
 nomement quant son estat est par fyne. — Et par
 agarde il est ouste del eide. — Quant a autre parcelle
 il moustra qil purchacea joint ove H. Gernet a luy¹
 et les heirs H. par fyne, et pria eide des heirs H.
 — *Setone.* H., al temps de sa mort, navoit rienz en
 la reversion, ne fee, ne dreit; prest, &c. — *HILL.*
 Vous ne deditetz pas qil ne fuit purchaceour par la
 fyne qe prove lenheritance en H., par qai eit leide.
 — *Birtone,* quant al primer eide, dist qe fyne
 se leva *ut supra*, et pur defaut dissue entre eux as
 dreits heirs H., qun des heirs M. est, de qi nous
 avoms prie eide, et prioms eide de cele M. par cause
 del taille qe par fee simple demuraunt en luy. —
Stour. Vous ne poietz aver eide par cause de deux
 dreitz, et *non obstante* le primere dreit vous estes
 ouste par agarde, et par cause del dreit simple vous
 naveretz pas de M. eide sanz ses coheirs. — Puis il
 pria eide de M. et ses parceneres, et fuit ouste.

(40.)² § Attachement sur la prohibicion fuist suy Attache-
ment sur
prohibi-
cion.
 vers ij supposant qils duissent aver suy en Court

¹ The words a luy are omitted from C.

² From H., and I., but corrected by the two records, *Placita de Banco*, Easter, 20 Edw. III., R^o 263, and R^o 263, d. According to the former an action was brought by John atte Newehalle against Dionysius de Eggesfeld to answer "quare tenuit placitum in Curia Christianitatis de catallis et

"debitis quæ non sunt de testa-
 "mento vel matrimonio, contra
 "prohibitionem Regis." According to the latter an action was brought by John atte Newehalle against Robert de Stodeye, parson of the church of Watton atte Stone, and John de Watton atte Stone, chaplain, to answer as to the prosecution of the same plea in Court Christian.

No. 40.

A.D. 1346. Christian a plea touching the cutting of trees and a debt of ten shillings, which did not relate to testament or to matrimony, and which belonged to the jurisdiction of the King.—And the plaintiff sued another writ against the Judge who held the plea, and alleged that a Prohibition had been delivered to him forbidding him to hold it, and that he did not on account thereof stay proceedings.—*Skipwith* said, with regard to one of those who are supposed to have sued, we tell you that he is parson¹ of the church of A.,¹ and within that parsonage he ought to have tithes of all the underwood cut down in his parish ; and we tell you that the place in which he alleges that the wood was cut down is in his parish ; and we say that we sued against him to have our tithes of the underwood cut down by him within our parish, *absque hoc* that we sued any plea touching tall trees, or other trees, or debt ; ready by our law.—And

¹ For the names, see p. 301, note 2.

No. 40.

Cristiene plee de couper des arbres et dune dette de A.D. 1346. x.s. qe ne touche testament ne matrimoine, quel attient al jurisdiction le Roi.—Et il suist un autre brief vers le Juge qe tint le plee, et qe prohibicion luy fut livre qe il mes ne tenist, il pur ceo ne lessa, &c.¹—*Skip*. Quant al un de ceux qe sont supposes qe suyrent, nous vous dioms qil est persone del eglise de A., deinz quele personage il doit aver dismes de tut le soutz boys abatu deinz sa paroche; [et dioms qe cele lieu ou il assigne le boys abatu est deins sa paroche]²; et dioms qe nous suymes devers luy pur aver noz dismes de soutz boys par luy abatuz deinz sa paroche, saunz ceo qe nous suymes plee de haut boys, ou des autres arbres, ou de dette; prest par nostre leye.³—Et pur

¹ The plaintiff's declaration against Eggesfelde was, according to the record (R^o 263), "quod cum ipse . . . apud Wattone in prædicto Comitatu (Hertford) citatus fuisset essendo coram præfato Dionisio, tunc Officiali Archidiaconi Huntynghdonie, . . . in ecclesia Omnium Sanctorum de Hertford in eodem Comitatu, ad respondendum Roberto de Stodeye, personæ ecclesiæ de Wattone atte Stone, et Johanni de Wattone atte Stone, capellano, de catallis et debitis, videlicet de mille grossis quercubus, et de quadraginta solidis argenti, per quod idem Johannes atte Newehalle . . . apud Londonias, in ecclesia beatæ Mariæ de Arcubus in Warda de Cordewanerestrete, in præsentia Rogeri Hottote, Johannis le Blake Nicholai Hottote, Nicholai de Haudmondsham, et aliorum, libavit prædicto Dionisio prohibitionem domini Regis, hortando

"ipsum Dionisium ne placitum prædictum ulterius teneret, prædictus Dionisius placitum prædictum de catallis et debitis prædictis ulterius tenuit contra prohibitionem domini Regis prædictam." The declaration against the other two for prosecuting the plea in Court Christian was, *mutatis mutandis*, in the same form.

² The words between brackets are omitted from H.

³ The plea on behalf of Robert was "quod ubi prædictus Johannes atte Newehalle superius in narrationes sua prædicta supponit ipsum Robertum secutum fuisse placitum in Curia Christianitatis de prædictis grossis arboribus et debito prædicto, quæ non sunt de testamento vel matrimonio, &c., dicit quod ipse est persona ecclesiæ de Wattone atte Stone, infra quam parochiam est quidam bos, qui vocatur Bardolfe wode, ubi dominus de Bardolfe qui est dominus bosci illius vendidit

§1. 41.

and was for the same purpose and — He was instructed
 chairman of the same church and because the
 plaintiff would not pay the dues of the said church
 and he refused him to be admitted a member
 of the church and to every church member for that
 he must otherwise pay, as by the church.

It is to be noted that in the above the plaintiff made a wage
 to the church and the chairman of the
 church of the church whereas it is
 shown by the record that same was
 paid to the church in the person of
 the church and the chairman thereof is
 not

No. 40.

son compaignon il dit qil fut chapelley[n] parochiel A.D. 1346.
de mesme leglise, et pur ceo qil ne voleit pas
paier les dismes del dit south bois nous luy feismes
somondre a respondre a la persone et a seinte eglise,
saunz ceo qe nous suymes autre; prest, &c., par pays.¹—

“prædicto Johanni atte Newehalle
“subbosco[m] bosci illius qui vocatur
“silva cædua, de qua quidem silva
“cædua decima debebatur prædicto
“Roberto, et de jure debetur tan-
“quam personæ ecclesiæ de Wat-
“tone atte Stone prædictæ, et quia
“prædictus Johannes atte Newe-
“halle prædictam silvam cæduam
“emit de prædicto domino de
“Bardolfe, et illam venditioni
“exposuit ibidem, et decimam inde
“præfato Roberto tanquam personæ
“solvere recusavit, prædictus
“Robertus, ut in jure ecclesiæ suæ
“prædictæ, prædictum Johannem
“atte Newehalle pro prædicta
“decima sibi sic a retro existente
“citari fecit essendi coram
“[*erasure*], &c., prædictis die et
“loco eidem Roberto super præ-
“missis responsurus, &c., et hoc
“virtute cujusdam brevis domini
“Regis de Consultatione in Can-
“cellaria ipsius domini Regis eidem
“Roberto in Cancellaria sua præ-
“dicta concessi, absque hoc quod
“ipse aliquod placitum in Curia
“Christianitatis de aliquibus grossis
“arboribus seu de aliquo debito
“secutus fuit contra prohibitionem
“domini Regis sicut prædictus
“Johannes atte Newehalle superius
“versus eum narravit.”

Issue was joined on this, and the
Venire awarded.

¹ According to the record, “Et
“prædictus Johannes de Wattone
“atte Stone dicit quod ipse est
“capellanus parochialis villæ de

“Wattone atte Stone prædictæ, et
“quod Decanus de Hertford ipsi
“Johanni in virtute obedientiæ
“suæ injunxit ut ipse præfatum
“Johannem atte Newehalle citaret
“ad comparandum coram Archi-
“diacono Huntynghoniam vel ejus
“Commissario in ecclesia parochi-
“ali de Hatfelde, prædictis die
“et anno, tam dicto Archidiacono
“ex officio suo quam prædicto
“Roberto in causa decimationis
“silvæ cæduæ prædictæ responsurus,
“et sic dicit ipse quod ipse prædic-
“tum Johannem atte Newehalle
“virtute mandati prædicti sibi sic
“directi in forma prædicta citavit,
“absque hoc quod aliqua prohibitio
“domini Regis ei liberata fuit, seu
“ipse aliquod placitum in Curia
“Christianitatis de grossis arboribus
“prædictis seu de aliquo debito
“quæ non sunt de testamento vel
“matrimonio, &c., secutus fuit
“contra prohibitionem domini
“Regis, sicut prædictus Johannes
“atte Newehalle superius versus
“eum narravit. Et hoc paratus est
“defendere contra ipsum et sectam
“suam sicut Curia Regis hic con-
“sideraverit.

“Ideo consideratum est quod
“vadiet ei inde legem suam, se
“xij^a manu sua, &c. Plegii de lege
“Johannes de Asshewelle senior, et
“Johannes de Asshewelle junior, de
“eodem comitatu. Et veniat cum
“lege sua hic a die Sancti Michaelis
“in tres septimanas in propria
“persona sua, &c.”

No. 40.

A.D. 1346. *Sadelingstanes*. You see plainly how we have supposed that these two sued the plea in common, and therefore [they should not be permitted] to sever their answer, since our action is taken on their common suit, which ought to be maintained by them in common, and therefore we do not understand that we have any need to answer to such divers issues of the plea.—WILLOUGHBY. This is a personal action for which an answer is given to each severally; and, if you will abide judgment there, you must refuse the issues tendered by them; and, therefore, consider.—Therefore *Skipwith* said, with regard to the Judge, that he held a plea touching tithes of underwood cut down, and that, when the Prohibition reached him, he stayed proceedings until the parson sued a Consultation, *absque hoc* that he held any other plea; ready, &c.—*Sadelyngstanes*. You see plainly how we have counted, with regard to one defendant, that he sued a plea touching trees cut down, and with regard to that he has waged his law, as above, as in respect of underwood of which he ought to have tithes, whereas underwood is so annexed to the freehold that wager of law in this case is not admissible; and we demand judgment.—And afterwards he accepted the wager of law, and the other found pledges for waging his law.—And with regard to the other defendant, he accepted the averment, &c.

No. 40.

Sadel. Vous veietz bien coment nous avoms suppose **A.D. 1346.** que eux ij siwirent le plee en comune, par quei eux a severer lour respons, puis que nostre accion est pris de lour comune seute, quel covient estre meyntenu par eux en comune, par quei nentendoms pas que a tieles diverses issues de plee eioms mester de respondre.—*WILBY.* Ceste une accion personel per quel respons est done de chesqun severalment; et, si vous volez demurer la, il covient que vous refusetz les issues par eux tenduz; et pur ceo avisetz vous.—Par quei, quant al Juge, *Skip.* dit qil tient ple des dismes de south bois abatuz, et quant prohibicion li vient il sursist tanqe la persone suyst une consultacion, saunz ceo qil tient autre ple; prest, &c.¹—*Sadel.* Quant al autre vous veietz bien coment nous avoms counte qil suyst ple des arbres coupes, et de ceo ad il gage sa ley, *ut supra*, come de south boys de quel il deit aver dismes, ou south boys est si annex al fraunctenement que ley en ceo cas nest pas receyvable; et demandoms jugement.—Et puis il receut la ley, et lautre trova plegges de la ley.—Et al autre il prist laverement, &c.²

¹ The plea on behalf of Dionysius was, according to the record, "quod ubi prædictus Johannes atte Newehalle superius in narratione sua prædicta supponit ipsum Dionysium tenuisse placitum in Curia Christianitatis de grossis arboribus prædictis et de debito prædicto, quæ non sunt de testamento vel matrimonio, &c., nulla prohibitio domini Regis eidem Dionisio per præfatum Johannem liberatum [sic] fuit, nec idem Dionysius aliquod placitum in Curia Christianitatis de prædictis arboribus seu de debito prædicto tenuit contra prohibitionem domini Regis, sicut idem Johannes superius versus eum narravit."

Wager of law was joined on this.
 "Et veniat cum lege sua hic a die Sancti Michaelis in tres septimanas in propria persona sua, &c."
² Afterwards, on the appearance of the parties, on the day given, "iidem Robertus et alii dicunt quod prædictus Johannes atte Newehalle ad præsens responderi non debet, quia dicunt quod idem Johannes pro sua manifesta contumacia est notabiliter excommunicatus. Et profert hic in Curia literas Episcopi Lincolnienensis testantes, &c."
 "Et prædictus Johannes non potest hoc dedicere.
 "Ideo prædicta loquela remanet sine die quousque, &c."

No. 41.

A.D. 1346. (41.) § A Mort d'Ancestor was brought in the country, and adjourned into the Common Bench on account of difficulty. The tenant¹ pleaded in bar on the ground that he brought his writ of *Cessavit* against one J.¹ and recovered, and that the estate of the plaintiff's ancestor was by the feoffment of the person against whom the writ of *Cessavit* was brought, and while his writ was pending, and so the estate of the plaintiff's ancestor was mesne between the purchase of the writ and the rendering of judgment; and he demanded judgment whether the plaintiff ought to have an assise in respect of that mesne estate.—*Thorpe*. We tell you that, before the judgment was rendered, the same J., against whom the writ of *Cessavit* was brought, enfeoffed our ancestor, and in virtue of that feoffment our ancestor paid to you the arrears, and you received his homage and his fealty. And *Thorpe* produced the tenant's own

¹ For the names, see p. 309, note 3.

No. 41.

(41.)¹ § Mortdauncestre porte en pays, et ajourne A.D. 1346.
 pur difficulte en Baunk. Le tenant pleda en barre Mortdaun-
 par taunt qil porta soun brief de *Cessavit* vers un cestre.
 J. et recoveri, et lestat launcestre fut par le feffe-
 ment celi vers qi le brief fut porte, et pendaunt
 soun brief, et issi soun estat² mene entre le brief
 purchace et le jugement rendu; et demanda juge-
 ment si de cel estat mene il dust assise aver.³—
Thorpe. Nous vous dioms qe avant le jugement
 rendu mesme celi J. vers qi le brief fut porte
 enfeffa nostre auncestre, par quel feffement nostre
 auncestre paia a vous les arrerages, et vous receustes
 son homage et sa fealte.⁴ Et myst avant son

¹ From H., and L., until otherwise stated, but corrected by the record, *Placita de Banco*, Easter, 20 Edw. III., R^o. 217, d. It there appears that the Assise was brought before Justices of Assise for the county of Devon, by John de Proutestone against John de Killebiry, in respect of one messuage, and one ferling and eight acres of land in Ermington (Devon) of which, as alleged, Richard de Proutestone, brother of John de Proutestone, was seised in his demesne as of fee on the day on which he died.

² The words soun estat are omitted from H.

³ The plea was, according to the record, "Johannes de Killebiry
 "dixit quod tenementa in visu
 "posita non sunt nisi unum
 "mesuagium et unus ferlingus
 "terræ tantum, et inde respondit
 "ut tenens, et dixit quod assisa
 "inde inter eos fieri non debuit,
 "dixit enim quod ipse alias in
 "Curia domini Edwardi nuper
 "Regis Angliæ, patris domini Regis
 "nunc, anno regni sui

"decimo septimo, tulit versus quen-
 "dam Radulphum Dawe de Pen-
 "coyt, tunc tenentem tenemen-
 "torum prædictorum, quoddam
 "breve Regis quod dicitur *Cessavit*
 "per biennium, cujus quidem brevis
 "data fuit quinto decimo die
 "Octobris eodem anno decimo
 "septimo, super quo brevi processus
 "continuatus fuit usque a die
 "Sanctæ Trinitatis in xv dies anno
 "regni ejusdem Regis patris, &c.,
 "decimo nono, quo die idem
 "Johannes per judicium Curie
 "ejusdem domini Regis eadem
 "tenementa, cum pertinentiis,
 "recuperavit, et dixit quod status
 "quem prædictus Ricardus, de
 "cujus seisina prædictus Johannes
 "de Proutestone exigebat tene-
 "menta prædicta, fuit medio tem-
 "pore inter datam brevis prædicti
 "de *Cessavit*, &c., et prædictum
 "diem judicii redditus, &c., unde
 "petiit judicium si assisa inter
 "eos in hoc casu fieri debuit,
 "&c."

⁴ H., son foialte, instead of sa fealte.

No. 41.

A.D. 1346. deed, which testified the receipt of the homage. And, said *Thorpe*, we demand judgment, since the estate of the plaintiff's ancestor was affirmed by the receipt of the homage, and of the rent, and that is testified by the tenant's own deed, whether by that recovery the tenant can bar the plaintiff from this assise.—*Grene*. And we demand judgment, since he has confessed the estate of his ancestor to have been by the feoffment of the person against whom the writ of *Cessavit* was brought (and that while our writ was pending) whose estate was defeated by the judgment subsequently rendered, and consequently your estate also. And as to your statement that we received your homage, and parcel of the arrears, while our writ was pending, to that the law does not put us to answer, since we have a more recent title by judgment.—*Thorpe*. If you plead against me

No. 41.

fait demene¹ qe tesmoigne la resceite del homage. A.D. 1346.
 [Et demandoms jugement, de puis qe lestat soun
 auncestre fut afferme par la receite del homage],²
 et de la rente, et ceo par son fait demene¹ tesmoigne,
 si par cel recoverir il luy put de cest assise barrer.³
 —*Grene.* Et nous jugement, puis qil ad conu lestat
 son auncestre estre par le feffement celi vers qi le
 brief fut porte, et ceo pendant nostre brief, qi estat
 par le jugement taille subsequent fut defait, et *per*
consequens vostre estat auxi.⁴ Et a ceo qe vous
 parlez qe nous resceumes vostre homage, et parcele
 des arrerages, pendant nostre brief, a ceo la lei ne
 nous mette a respondre, puis qe par jugement avoms
 title de temps plus tard.—*Thorpe.* Si vous pledetz

¹ demene is omitted from I.

² The words between brackets are omitted from H.

³ The replication was, according to the record, "Johannes de Proutestone dixit quod, pendente prædicto brevi de *Cessavit*, &c., prædictus Radulphus Dawe de tenementis prædictis feoffavit prædictum Ricardum, de cujus seisinâ, &c., in feodo simplici, tenendis de capitalibus dominis feodi, &c., qui quidem Ricardus statim post feoffamentum prædictum obtulit prædicto Johanni de Killebiry, de quo tenementa prædicta tenebantur, omnia arreragia redditus, et omnia alia servitia prædicto Johanni de Killebiry debita, et idem Johannes recepit per manus prædicti Ricardi triginta solidos pro arreragiis redditus de tempore prædicti Radulphi, et etiam homagium et fidelitatem ejusdem Ricardi pro eisdem tenementis, et protulit ibi scriptum prædicti Johannis de Killebiry quod prædictam receptionem arrera-

giorum, et homagii, et fidelitatis testatur in forma prædicta, cujus data est apud Killebiry, die Mercurii in Festo Sancti Barnabæ Apostoli, anno regni prædicti Regis patris, &c., decimo nono, unde petiit judicium si ipse, virtute judicii prædicti, contra scriptum illud ipsum ab assisa præcludere possit. Et petiit quod assisa caperetur, &c."

⁴ The rejoinder was, according to the record, "Johannes de Killebiry dixit quod cum prædictus Johannes de Proutestone non dedixit prædictum Radulphum fuisse tenentem ipsius Johannis de Killebiry de tenementis prædictis, et de eisdem seisitionis fuisse prædicto die impetrationis brevis de *Cessavit*, &c., nec judicium prædictum, nec etiam statum prædicti Ricardi fuisse medium, unde petiit judicium si prædictus Johannes de Proutestone per aliqua per ipsum superius allegata contra judicium illud assisam habere debeat."

No. 41.

A.D. 1346. an estate mesne between the purchase of the writ and the rendering of judgment, I can say that the demandant himself entered, and enfeoffed me, and so confirm my possession by title from the demandant himself, and that will suffice without having regard to the judgment of a later time; so also in this case, since the receipt of homage and of rent by you from us, which is testified by your deed, and by the tender of which, if we had been parties to the original writ of *Cessavit*, we should have been able to retain the land, therefore that which we could not have pleaded then because we were not a party we can plead now, just as, if you had released your right to me, I should be able to plead that now.—WILLOUGHBY. If he had released to you, the person against whom the original writ of *Cessavit* was brought could have pleaded that in arrest of his action, but neither this receipt of homage nor the receipt of the arrears of rent from you could have been of any avail to him who was then party, nor consequently to you now, since by the subsequent judgment he has a more recent title.—HILLARY expressly denied this.—And they were adjourned.—The conclusion of the report appears hereafter in Trinity Term in the twenty-first year.¹

Mort
d'Ance-
stor.

§ Mort d'Ancestor. There was a plea in bar on the ground that the person who was tenant² brought a writ of *Cessavit* against one A.² and recovered, and that the estate of the plaintiff's ancestor, on whose seisin he claimed, was mesne between the purchase of the writ and the rendering of judgment. To this it was replied, in the country, that the tenant himself who so pleaded had received the services of the plaintiff's ancestor, on whose death, &c., and had

¹ The reference appears to be editions.

to Y.B., Trin., 21 Edw. III., No. 4,
fo. 19, as printed in the old

² For the names, see p. 309, note
3.

No. 41.

vers moi par estat mene entre le brief purchase et le jugement rendue, jeo puisse dire qe le demandant entra mesme, et moy enfeffa, et issi enfermer ma possessioun par title del demandant mesme [il suffira saunz aver]¹ regarde al jugement de temps apres; auxi icy, puis qe vostre resceite de homage² et de la rente de nous, qest tesmoigne par vostre fait, par tendre de quel, si nous ussoms este partie al original, nous purrioms aver retenu la terre, par quei ceo qe nous ne purrioms adonques aver plede pur ceo qe nous ne fumes pas partie, nous le pledroms a ore, come si vous moi ussetz relese vostre dreit jeo le pledray a ore.—WILBY. Sil vous ust relese, celi vers qi loriginal fut porte le poait aver plede en areste de saccion, mes cele resceite de homage³ ne des arrerages fait de vous ne put aver valu a celui qe adonques fut partie, et *per consequens* nent a vous a ore, puis qe par le jugement apres il ad title de plus tard.—HILL. *negavit hoc expresse*.—Et adjornantur.⁴—*Residuum postea xxi. termino Trinitatis*.

§ Mortdauncestre.⁵ Plede fuit en barre pur ceo qe celui qest tenant porta brief de *Cessavit* vers un A. et recoveri, et lestat launcestre de qi seisine, &c., fuit mene entre le brief purchase et jugement rendu. A qai en pays fuit replie qe celui mesme qe pleda avoit resceu les services soun auncestre, de qi mort,

¹ The words between brackets are omitted from I.

² H., damage, instead of de homage.

³ I., damage, instead of de homage.

⁴ According to the roll the parties were adjourned to Westminster before the same Justices of Assise, and afterwards into the Common Bench. There, after several adjournments, "Visis et

"examinatis recordo et processu
"supradictis, et auditis hinc inde
"partium rationibus, consideratum
"est quod prædicta assisa capiatur,
"&c. Et sciendum quod recordum
"inde, una cum brevi originali
"et pannello, remittuntur præfatis
"Justiciariis ad capiendum assisam
"prædictam in patria, &c."

⁵ This report of the case is from L., and C.

No. 41.

A.D. 1346. received his homage and accepted him as tenant. And the plaintiff alleged that his ancestor was enfeoffed by A.,¹ against whom the writ of *Cessavit* was brought at that time, and he demanded judgment and prayed the assise. And upon that they were adjourned into the Common Bench.—*Grene*. You see plainly how we have pleaded that his ancestor's estate was mesne between the bringing of the writ of *Cessavit* and the rendering of judgment, and he does not allege that his right is of earlier date, nor does he deny that which we have surmised against him, and therefore we demand judgment whether an assise, &c.—*Thorpe*. And inasmuch as *Cessavit* does not lie except with regard to payment of services, and in default of a power to distrain, and we, by the feoffment of the person who was your tenant, became your tenant, and you do not deny the receipt of the services by our hand, or that you have received our homage, by which your action by *Cessavit* was extinguished just as much as it would have been by your release, we therefore demand judgment, and pray the assise: for, even though it were law that our ancestor could not have compelled you to receive his services because he purchased while your writ was pending, still, when you of your own free will accepted him as tenant, that acceptance extinguished your action.—*Grene*. You do not deny that A.¹ ceased to render the services, and that so there was an action and a good writ against him, and therefore his conveyance, while the writ was pending against him, was of no avail, nor was the judgment given against him weakened thereby, because by law he, and no one else, is to be adjudged tenant; and if a release had been made (on which point you touched) by a demandant to one who had purchased while the writ was pending, such a release would

¹ For the names see p. 311, note 3.

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&c., et resceu soun homage, et accepte luy come A.D. 1346. tenant. Et alleggea qe soun auncestre fuit feffe par A., vers qi le brief fuit porte adonques, et demanda jugement et pria assise. Et sur ceo adjournes en Baunk. — *Grene*. Vous veietz bien coment nous avoms plede qe lestat soun auncestre fuit mene entre le brief de *Cessavit* porte et jugement rendu, et il nallerge pas soun dreit estre del plus haut, ne dedit pas ceo qe nous luy avoms surmys, par qai nous demandoms jugement si assise, &c.—*Thorpe*. Et desicome le *Cessavit* ne git pas forqe par noun de paiement des services, et pur defaute de destresse, et par le feffement de celui qe fuit vostre tenant nous devenimes vostre tenant, et vous ne deditetz pas la resceite des services par nostre mein, ne qe vous navetz resceu nostre homage, par quel vostre accion par le *Cessavit* fuit esteint si avant come par vostre relees, par qai nous demandoms jugement et prioms assise; qar, tut fuit ceo lei qe nostre auncestre vous ust pas chace a resceivre ses services pur ceo qil purchacea pendant vostre brief, unqore, quant de gree vous luy resceustes vostre tenant, cel resceit esteigna vostre accion. — *Grene*. Vous ne deditez pas qe A. ne cessa, et issint laccion et brief boun devers luy, par qai sa demise, pendant le brief vers luy, fuit de nulle value, ne le jugement taille vers luy enfeibly par tant, qar de lei il, et nulle autre, est ajuge tenant; et si le relees fuit fait, come vous touchetz, par un demandant a un qavoit purchace pendant le brief, a peyn si un tiel relees

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A.D. 1346. hardly have availed such a purchaser, because the purchase is by law null with regard to the person who brought his writ, and, even though it were effectual, we are in a better case.—*Thorpe*. If the year and the day had passed, and we were in possession, we should be able to prevent execution on a *Scire facias*.—*SHARSHULLE*. Hardly. And it is extraordinary that you paid your money to him if you had no security that he would be non-suited.

Cosinage. (42.) § The tenant waged his law as to non-summons, and had a day over, and on that day he was essoined by a common essoin, and had a day over, and on the latter day he was essoined *de malo lecti*, and in the following words:—"J. de A. languidus, in Comitatu de R., in villa de S.," against such an one "*de placito terre*." And because this essoin ought, by common right, to be cast three days before the common day, and it was now cast on the first day as other essoins were, and also because such an essoin lies only on a writ of Right, therefore for those two reasons *WILLOUGHBY* and *HILLARY* quashed the essoin, &c.

Essoin. § At the five weeks after Easter [there was an essoin in the words]:—"Johannes qui languidus est, apud Beverlacum, in Comitatu Eboraci, versus, &c., per Johannem de Boutelele et Nicholaum de Beverle." And it was cast among the common essoins on the same day as they were. And exception was taken to the essoin on the ground that it ought to have been cast three days at least before that day, and that the writ was one of Aiel, and that such an essoin lies only upon a writ of Right. And there was touched by the COURT the point that it would be necessary to send to four knights to ascertain whether the tenant was sick, and of what sickness, and that within Term-time, and, if he was not sick, to turn this essoin into a default, and, if he was sick, to

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vaudreit a un tiel purchaceour, qar le purchace de A.D. 1346. lei est nulle eaunt regarde a celui qad porte soun brief, et, tut fuit ceo issint,¹ nous sumes en melliour cas.—*Thorpe*. Si lan et le jour fuit passe, et nous fuissoms einz, nous destourberoms execucion al *Scire facias*.—*SCHAR*. A peyn. Et il est merveille qe vous paiastés vostre argent a luy si vous nussetz eu soerte qil volleit aver este nounsuy.

(42).² § Le tenant gagea sa ley de nounsomons, ^{Cosinage.} et avoit jour outre, a quel jour il fut essone de ^{[Fitz.,} *Essone*, comune essone, et avoit jour outre, a quel jour il ^{27.]} fut essone *de malo lecti*, et par tiels paroles:—*J. de A. languidus, in Comitatu de R., in villa de S., vers un tiel, de placito terræ*. Et pur ceo qe ceste essone par comune dreit deit estre jettu iij jours avant comune jour, et il fut ore jettu al primer come autres essones furent, et auxi tiel essone ne gist mes en brief de Dreit, par quei par ces deux causes *WILBY* et *HILL*. quassèrent lessone, &c.

§ A³ v. symeignes de Pasche *Johannes qui languidus* ^{Essone.} *est, apud Beverlacum, in Comitatu Eboraci, versus, &c., per Johannem de Boutele et Nicholaum⁴ de Beverle*. Et fut jettu⁵ mesme le jour entre comunes essones. Et lessone est chalenge de ceo qele dust estre jettu⁶ iij⁶ jours au meins avant le jour, et qest un brief Daiel, et qe tiel essone ne git pas forqen brief de Dreit. Et fuit touche par Courr qil coviendreit maunder a iiij chivalers, de veer moun sil fuit⁷ malade, et de quel malade, et ceo deinz le terme, et, sil ne fuit pas malades, tourner ceste essone⁸ en une defaute, et, si malade, *præfigere diem a die*

¹ issint is omitted from C.

² From H., and I., until otherwise stated.

³ This report of the case is from L., and C.

⁴ C., Johannem.

⁵ C., gettu.

⁶ L., iiij.

⁷ C., soit.

⁸ C., tourne.

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A.D. 1346. appoint a day one year and one day after the day of view, and to allow him to have one such essoin after another on very cause. And, because it was now the end of the Term, the four knights could not, during this Term, have view and make their return thereon.—Afterwards the essoiner waived that essoin, and held to an essoin on the King's service.

Mesne. (48.) § The mesne brought a writ of Mesne against his lord; and the writ was in common form. And he counted that his tenant below him was distrained by the lord above him, the defendant, for homage and relief to the defendant, and for that reason his tenant brought a writ of Mesne against him, to which he pleaded:—not distrained through his default. And it was found that the tenant had been so distrained, and therefore the tenant recovered against him the acquittal of services, and damages to the amount of ten pounds. Therefore he had many times afterwards come to the defendant, and prayed the defendant to acquit him of the services, and the defendant would not acquit him, &c.—*Moubray*. You see plainly how he has counted that he is distrained through our default because his tenant recovered damages against him by reason of our non-acquittal of services, and he has not counted that the damages were levied of him, nor yet the amercement; judgment.—*Blaykeston*. We have said that he recovered damages against us, and that must be understood to imply execution unless the reverse be pleaded by you.—Therefore *Moubray* prayed that, since the plaintiff's action was maintained by the recovery of damages against him, without which recovery this action could not be maintained, he might have oyer of it.—*WILLOUGHBY*. This is an original writ out of the Chancery, and not one issuing upon a record like a *Scire facias*; therefore you cannot have oyer.—*Grene*. I know well that it is an original writ out of the Chancery,

No. 43.

visus in unum annum et unum diem,¹ et qil avereit A.D. 1346.
 une tiele essone apres une autre sur² vrai cause.
 Et, pur ceo qil est en la fine du terme, les iiij
 chivalers ceo terme ne purreint pas faire la vieve
 et la retourner.—Puis lessonour weyva cel essone et
 se tient³ a une essone de service le Roi.

(43.)⁴ § Le mene porta brief de Mene vers son Mene.
 seignur; et le brief fut comune. Et il counta qe [Fitz.,
 son tenant par deval lui fut destreint par le seignur Mesne,
 paramont, le defendant, pur homage⁵ et relief le 14.]
 defendant, par quei le tenant porta brief de Mene
 vers luy, ou il dit qe nent destreint par sa defaute.
 Et trove qe si, par quei il recoveri vers lui
 laquitaunce, et ses damages a x.li. Par quei sovent
 puis il vint a lui, et lui pria qil luy acqutast, il
 luy acquiter ne voleit, &c.—*Moubray*. Vous veietz
 bien coment il ad counte qil est destreynt par nostre
 defaute pur taunt qe son tenant recoveri damages
 vers lui pur nostre nounacquitaunce, et il nad pas
 counte qe les damages furent levetz de lui, ne
 lamerciement nent le pluis; jugement.—*Blaik*. Nous
 avoms dit qil recoveri damages vers nous, quel serra
 entendu execucion si le revers ne soit plede par
 vous.—Par quei *Moubray* pria qe puis qe saccion
 fut meintenu pur le recoverir des damages devers
 luy, saunz quel ceste accion ne put estre meintenu
 qil pout aver de ceo loy.⁶—*WILBY*. Cest un
 original de la Chauncellerie, et noun pas issaunt
 del record come *Scire facias*; par quei, &c.—*Grene*.
 Jeo say bien qe cest un original de la Chauncellerie,

¹ The words *et unum diem* are
 omitted from L.

² C., et sur.

³ C., tiendrent.

⁴ From H., and I., until other-
 wise stated.

⁵ H., lomage.

⁶ H., lei.

Nos. 44, 45.

A.D. 1346. which is not warranted by any record, but since he has by his declaration made the recovery the foundation and footing of it, the declaration cannot be admitted without having oyer of the record.— And they were adjourned in *statu quo nunc, salvo partibus rationibus, &c.*

Mesne. § A writ of Mesne was brought by the mesne, who had by judgment been charged with the acquittal of services through the default of the person against whom the writ was brought. And the plaintiff counted of the whole matter in accordance with his case.—*Grene* demanded oyer of the record by which the plaintiff was supposed to have been charged.—*Stonore*. For what purpose? You are not a party, and you must know, even without that record, whether he is your tenant, and whether you ought to acquit him, and also whether there has been any default in you.¹

Debt. (44.) § Executors brought a writ of Debt.—*Skipwith*. What have you to show that you are executors?—*Moubray* made *profert* of the obligation of the party himself by which he had bound himself to the plaintiffs as executors.—*Skipwith*. Since you do not produce the will which proves that you were named as executors by the testator, and also that you were admitted by the Ordinary as executors by proving the will, judgment.—*Moubray*. There is no necessity to produce it, since your own deed testifies that we are executors; therefore, &c.

Debt. (45.) § A writ of Debt was brought, and the plaintiff made *profert* of an obligation by which the defendant had bound himself to pay the plaintiff twenty pounds unless he paid ten marks

¹ The case appears to be continued in Y.B., Mich., 20 Edw. III., No. 92.

Nos. 44, 45.

quel nest pas garranti de nul record, mes quant A.D. 1346. par sa demoustrance il founde le pee de cele par le recoverer, la demoustraunce ne poet estre resceu saunz aver oy del recorde.—*Et adjornantur in statu quo nunc, salvo partibus rationibus, &c.*

§ Mene¹ porte par le mene, qe par jugement fuit Mene. charge del acquiter en default de celui vers qi le brief est porte. Et counta tut solonc son cas.—*Grene* demanda oy del recorde par quel le pleintif suppose estre charge.—*Ston.* A quel effecte? Vous nestes pas partie, et vous devetz saver, tut sanz cel recorde, sil soit vostre tenant, et si vous luy acquitez, et auxint si nulle defaute soit² en vous.

(44.)³ § Executours portent brief de Dette.—*Skip.*⁴ Dette. Quei avetz qe vous fait executours?—*Moubray* mist avant loblacion la partie mesme par quel il savoit oblige a les pleintifs executours.—*Skip.*⁵ Puis qe vous ne moustrez pas testament qe prove qe vous estoietz nome par le testatour, et auxi qe vous estoietz resceu del Ordiner come executours par le prover de testament, jugement.—*Moubray.* Il ne covient pas ceo mustrer, puis qe vostre fait demene tesmoigne qe nous sumes executours; par quei, &c.

(45.)³ § Brief de Dette porte, et mist avant Dette obligation par quel le defendant savoit oblige de lui paier xx.li. sil ne paie a certeyn jour x. mars,

¹ This report of the case is from L., and C.

² soit is omitted from L.

³ From H., and I.

⁴ *Skip.* is omitted from H.

⁵ I., *Thorpe.*

No. 46.

A.D. 1346. on a certain day, and, because the defendant did not pay the ten marks on the appointed day, an action accrued to the plaintiff to demand the twenty pounds.—*Moubray*. You see plainly how he demands twenty pounds by reason of the non-payment of ten marks, and so it is proved by his suit that what he demands is usury; judgment whether this Court will take cognisance of this matter.—*Grene*. Do you mean that to be your answer?—*Moubray* did not dare to abide judgment thereupon, and said:—The obligation was made to the plaintiff and to another person, and the other is not named in the writ; judgment of the writ.—*Grene*. We say that he is dead; therefore, &c.

Avowry. (46).¹ § One avowed on the ground that the plaintiff held of him by certain services, of which he was seised by the hand of the plaintiff's father, and he avowed for so much in arrear.—

¹ For the commencement or another report of this case, see above, Hilary Term, No. 23, p. 86.

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et, pur ceo qil ne luy paya pas a jour assis¹ les A.D. 1846.
 x. marcs, accion a lui² acrust a demander les xx.li.
 —*Moubray*. Vous veietz bien coment il demande
 xx.li. par cause de noun paiement de x. marcs, et
 issi est ceo prove par sa sute qe ceo qil demande
 est usure; jugement si ceste Court de ceo voet
 conustre.—*Grene*. Voletz ceo pur respons?—Par quei
*Moubray*³ nosa pas demurer, et dit qe lobligation est
 fait al pleintif et a un autre, et lautre nent nome
 en le brief; jugement.—*Grene*. Nous dioms qil
 est mort; par quei, &c.

(46.)⁴ § Un avowa pur ceo qe le pleintif tint de lui *Avowers*.
 par certains services, des queux il fut seisi par my
 la meyn son pere, et pur taunt arrere il avowa.⁵—

¹ The words a jour assis are omitted from I.

² The words a lui are omitted from I.

³ H., il.

⁴ From H., and I., but corrected by the record, *Placita de Banco*, Easter, 20 Edw. III., R° 228, d. It there appears that the action was brought by William le Olde against John de Compton, knight, and Margery, his wife, and Margery and Margaret, his daughters, and Walter de Harselade, in respect of a taking of four oxen and "unam carucam, cum sex trahitibus."

⁵ The avowry was, according to the record, on behalf of John de Compton and the others, "quod prædictus Willelmus le Olde tenet de eo unum messagium, centum acras terræ, et tres acras prati, cum pertinentiis, in Shorwelle unde prædictus locus in quo, &c., est parcella, per homagium, fidelitatem, et servitium unius denarii per annum ad

"Festum Sancti Michaelissolvendi, et faciendi sectam ad curiam ipsius Johannis de Comptone de tribus septimanis in tres septimanas, de quibus servitiis quidam Odo, avus ipsius Johannis, cujus heres ipse est, fuit seisitus per manus Johannis le Olde, patris prædicti Willelmi, cujus heres ipse est, ut per manus veri tenentis sui. Et de ipso Odone descenderunt prædicta servitia cuidam Adæ ut filio et heredi, &c. Et de ipso Adæ descenderunt eadem servitia isti Johanni, ut filio et heredi, qui nunc advocat, &c. Et quia redditus prædictus, et prædicta secta per viginti et sex annos ante diem captionis prædictæ, et etiam fidelitas ipsius Willelmi, post mortem prædicti patris sui, eidem Johanni de Comptone aretro fuerunt, pro prædicto reddito cepit ipse prædictos boves, et pro prædicta secta cepit ipse prædictam carucam et trahitus, &c., in prædicto loco, prout ei bene licuit, &c."

No. 46.

A.D. 1346. *Hareryngton*. We tell you that the Countess of Albemarle,¹ of whom you held, purchased the same land, to hold to her and her heirs, by which purchase your mesne seignory was extinguished; judgment whether, &c. — *Huse*. As to that we tell you that, after that purchase, she gave the land to the plaintiff's ancestor to hold of her by the services for which we have avowed, and that before the statute,² and afterwards the Countess granted the same services to us, by reason of which grant the plaintiff's father attorned, and so the seignory on the ground of which we make avowry commenced at a later time than the purchase which you have alleged; judgment whether, &c.—

¹ See p. 325, note 1.

² (*De Prærogativa Regis*) *Incerti temporis* in Statutes of the Realm;

17 Edw. II. St. I. in Ruffhead's Edition.

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Hav. Nous vous dioms qe la Countesse Daumarle, A.D. 1346. de qi vous tenistes, purchacea mesme la terre, a luy et a ses heirs, par quel purchace vostre seigneurie mene fut esteint; jugement si, &c.¹—*Huse.* A ceo vous dioms nous qe, apres cele purchace, ele dona la terre al auncestre le pleintif a tenir de lui par [services pur queux avoms avowe, et ceo avant lestatut, et puis la Countesse graunta mesmes les]² services a nous, par quel graunt le pere le pleintif attourna, et issi la seigneurie pur quele nous fesoms lavowere comencea de temps plus tard qe le purchace qe vous avetz allegge; jugement si, &c.³—

¹ The plea was, according to the record, "Willelmus dicit quod prædictus Johannes captionem prædictam ratione prædicta super ipsum justam advocare non potest. Et, non cognoscendo quod tenementa prædicta tenentur de præfato Johanne per servitia supradicta, nec quod antecessores ejusdem Johannis unquam seisisi fuerunt de servitiis prædictis per manus prædicti Johannis le Olde patris sui, dicit quod quidam Odo de Comptone, abavus prædicti Johannis qui nunc advocat, cujus heres ipse est, fuit seisisus de prædictis tenementis, cum pertinentiis, in dominico suo ut de feodo, et ea tenuit de quadam Isabella de Fortibus Comitissa Devonie et Domina Insulæ, quæ ulterius tenuit de domino Rege, &c., qui quidem Odo, diu ante statutum, &c., de tenementis illis feoffavit quandam Matilldem filiam ejusdem Odonis, tenendis sibi et heredibus suis de ipso Odone et heredibus suis, per fidelitatem, et servitium unius rosæ ad Festum Nativitatis Sancti Johannis Baptistæ annuatim pro

"omnibus servitiis solvendæ in perpetuum. Et postmodum eadem tenementa devenerunt in manus cujusdam Jacobi de Caverle, qui de eisdem tenementis seisisus fuit in dominico suo ut de feodo et jure, et inde feoffavit præfatam Comitissam quæ fuit domina capitalis, &c., cujus statum idem Willelmus le Olde nunc habet in tenementis illis, virtute cujus feoffamenti præfatæ Comitissæ, quæ fuit capitalis domina in feodo de tenementis illis sic facti servitia prædicti medii, &c., omnino fuerunt extincta, unde petit judicium si prædictus Johannes pro servitiis prædictis, ut præmittitur, sic extinctis, captionem prædictam advocare possit, &c."

² The words between brackets are omitted from H.

³ The replication was, according to the record, "Johannes dicit quod, diu ante statutum de Prærogativa Regis, &c., præfata Isabella Comitissa, &c., seisisa de tenementis prædictis, feoffavit de eisdem quandam Johannem de Mounpalers, tenendis sibi et

No. 46.

A.D. 1346. *Haveryngton*. Whereas you have said that our father attorned, we do not confess the grant, but we say that our father did not attorn to him; ready, &c.—*Huse*. You shall not be admitted to that, since you do not deny the seisin of the services by the hand of your father, which seisin gives attornment.—*Haveryngton*. Then you refuse the averment?—And *Huse* did not dare to do so; therefore he tendered the averment that the plaintiff's father did attorn.—And so to the country.

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Hav. La ou vous avetz dit qe nostre pere attorna, A.D. 1346.
nous ne conissons pas le graunt, mes nous dioms
qe nostre pere nattourna pas a lui, prest, &c.¹—

Huse. A ceo ne serretz resceu, de puis qe vous ne
dedistes pas la seisine des services par my la meyne
vostre pere, quele seisine doune lattournement.—*Hav.*
Donques refusetz laverement.—Et *Huse* nosa pas; par
quei il tendi daverer qe son pere attourna.—*Et sic*
ad patriam, &c.

“heredibus suis de ipsa Comitissa
“et heredibus suis per servitia
“supradicta in advocare suo con-
“tenta, qui quidem Johannes
“de Mounpalers feoffavit inde
“quendam Gregorium le Olde
“de Cristchirche. Twynham,
“qui obiit sine herede de se,
“per quod tenementa illa
“descenderunt cuidam Johanni
“le Olde, patri prædicti Willemi,
“ut fratri et heredi, &c., per cujus
“manus prædicta Isabella Comi-
“tissa seisisa fuit de eisdem
“servitiis. Et postmodum præfata
“Comitissa per scriptum suum,
“quod hic profert, et quod hoc
“testatur, &c., concessit et con-
“firmavit cuidam Odoni de Comp-
“tone, avo ipsius Johannis de
“Comptone, cujus heres ipse est,
“servitia illa tenenda sibi et
“heredibus suis in perpetuum, vir-
“tute cujus concessionis prædictus
“Johannes le Olde se attornavit
“inde præfato Odoni, &c. Et de
“ipso Odone descenderunt servitia
“prædicta cuidam Adæ, ut filio et
“heredi, &c. Et de ipso Ada
“descenderunt eadem servitia isti
“Johanni de Comptone, ut filio et
“heredi, qui nunc advocat, &c. Et
“sic dicit quod dominium accrevit
“præfato Odoni de posteriori tem-

“pore, &c., unde petit judicium
“et returnum prædictorum
“averiorum, &c.”

¹ The rejoinder was, according to
the record, “Willelmus dicit quod
“ubi prædictus Johannes superius
“supponit præfatam Comitissam
“concessisse servitia supradicta
“præfato Odoni, avo, &c., virtute
“cujus concessionis asserit præ-
“dictum Johannem le Olde, patrem,
“&c., attornasse se eidem Odoni
“de eisdem servitiis, eadem
“Isabella feoffavit prædictum
“Johannem de Mounpalers de
“tenementis prædictis, diu ante
“statutum, &c., tenendis de se et
“heredibus suis, per servitium unius
“denarii tantum pro omnibus
“servitiis, per quandam chartam
“ipsius Comitissæ eidem Johanni
“de Mounpalers factam, quam
“prædictus Willelmus le Olde hic
“profert, &c., et quæ hoc testatur,
“&c., absque hoc quod prædictus
“Johannes le Olde unquam se
“attornavit præfato Odoni de
“servitiis prædictis sicut prædictus
“Johannes de Comptone superius
“supponit.”

Issue was joined upon this, and
the *Venire* awarded, but nothing
further appears on the roll.

No. 47.

A.D. 1346. (47.) § In Dower the heir of the husband was
Dower. vouched in the same county and in several others,
and he appeared, and did not ask by what the
tenant would bind him to warrant, and he entered
into warranty as one who had nothing by descent
in fee simple, and rendered dower to the demandant.
—*Skipwith*, for the wife, prayed her dower against
the tenant on the ground that the heir had been
vouched in another county.—*HILLARY*. You will not
have that, for it is possible that the heir has assets
in the same county in which the demand is.—
Therefore judgment was given that the wife should
recover against the heir if he had assets in the
same county, and, if not, against the tenant, and
that the tenant should recover over.—*Moubray* came,
after judgment, and said that, inasmuch as the
vouchee entered into warranty without asking by
what he could be bound to warrant, it did not
matter whether he had assets by descent or not,
and therefore the judgment which had been so
rendered ought to be amended.—*WILLOUGHBY*. The
judgment is rendered, and for that reason the parties
are out of Court, and therefore you have come too
late.—*Moubray*. This judgment is not warranted by
the roll; and, when you see that your judgment is
not warranted by the record, you have power to
amend it during this Term.—But the COURT would
not do so, &c.

Dower. § Constance, late wife of H. Vavasour, brought a
writ of Dower. The heir of the husband was
vouched in the same county and in others, and
entered into warranty as one who had nothing by
descent in the same county. And judgment was
given that the demandant should recover against the
heir, if he had assets in the same county, and, if
not, against the tenant, and that the tenant should
recover over to the value.—And afterwards, *Moubray*

No. 47.

(47.)¹ § En Dowere leir² le baron fut vouche en A.D. 1346. mesme le counte et en plusours autres, et vient, ^{Dowere.} saunz demander par quei il luy voleit lier, et entra ^{[Fitz.,} ^{Jugement,} en la garrantie come celui qe riens nad par ^{178.]} descente en fee simple, et rendi dowere al demandante.—*Skip.*, par la femme, pria son dowere vers le tenant pur taunt qe leir² [est vouche en autre counte.—*HILL.* Vous nel averetz pas, qar il est possible qe le heir]³ eit assetz en mesme le counte ou la demande est.—Par quei fut agarde qe la femme recoverast vers leir² sil ust en mesme le counte, et, si noun, vers le tenant, et il outre, &c.—*Moubray* vint apres jugement, et dit qen taunt qe le vouche entra en garrantie saunz demander par quei il serra lie *quod non refert* le quel il ad par descente ou nient, par quei cel jugement qest issi rendu covent estre redresse.—*WILBY.* Le jugement est rendu, et par taunt les parties hors de Court, par quei vous estes venu trop tard.—*Moubray.* Cel jugement nest pas garranti de rulle; et, quant vous veietz qe vostre jugement nest pas garranti par recorde, deins cele terme vous avetz poair⁴ del amendre.—*Sed CURIA noluit, &c.*

§ Custaunce⁵ qe fuit la femme H. Vavasour porta ^{Dowere.} brief de Dowere. Leire le baroun fut vouche en mesme le counte et autres, et entra come celui qe rienz nad par descente en mesme le counte. Et agarde est qe la demandante recovere vers leire, sil eit en mesme le counte, et, si noun, vers le tenant, et il a la value.—Et puy *Moubray* alleggea coment

¹ From H., and I., until otherwise stated.

² I., le heir.

³ The words between brackets are omitted from H.

⁴ H., powere.

⁵ This report of the case is from L., and C.

Nos. 48, 49.

A.D. 1346. alleged that the warrant warranted of his own free will, and not in virtue of his ancestor's deed, in which case the judgment should be against the tenant simply, that is to say, that the demandant should recover against the tenant, and the tenant over to the value.—SHARSHULLE. What you say would be true if it had been said in time, but judgment has been rendered.—HILLARY. Yes, judgment has now been given, and it is a good judgment, too, because the vouchee entered into warranty as one who had nothing by descent, and, moreover, it was replied that he had assets by descent, and thereby it was proved that he was vouched and warranted as heir of his ancestor.

Avowry. (48.) § One avowed on the ground that the plaintiff's father held of one J., who granted the same services to the defendant's ancestor in fee tail, in virtue of which grant the plaintiff's father attorned; and the defendant avowed for the rent.—*Haveryngton*. You see plainly how he has avowed in virtue of a grant of services, which falls under the head of a specialty, and of that he produces nothing; judgment whether without a specialty, &c.—WILLOUGHBY. He has supposed that your ancestor attorned in virtue of the grant, and that is sufficient as against you; therefore answer.—*Haveryngton*. Out of his fee; ready, &c.—And the other side said the contrary.

Avowry. (49.) § Thomas de Wycombe,¹ as bailiff of the Prince of Wales, made cognisance of a taking, and that on the ground that the Prince is lord of the honour of Wallingford, within which honour he has a manor of Iver, within which manor he has a court leet as regardant to the honour, &c.; and,

¹ For the real name, see p. 331, note 2.

Nos. 48, 49.

qe le garraunt garrauntist de gree, et noun pas par A.D. 1346.
fait soun auncestre, en quel cas lagarde serreit vers
le tenant simplement, saver, qe la demandante
recovery vers la tenant, et il a la value.—SCHAR.
Vous ditez verite, si ceo ust este parle par temps,
mes le jugement est rendu.—HILL. Oyl, ore est le
jugement fet, et si est il boun, qar il entra en
garrauntie come celuy qe rienz navoit par descente,
et auxint fuit replie qil ad assetz par descente, et
par taunt fuit prove qil fuit vouche et garrauntist
come heire soun auncestre.

(48.)¹ § Un avowa pur ceo qe le pere le pleintif Avowere.
tint dun J., qe graunta mesmes les services a son
auncestre en fee taille, par quel graunt le pere le
pleintif attourna; et pur la rente il avowa.—HAR.
Vous veietz bien coment il ad avowe par graunt
des services, qe chiet en especialte, et de ceo ne
moustrer il rienz; jugement si saunz especialte, &c.
—WILBY. Il ad suppose qe vostre auncestre attourna
par le graunt, qe suffit vers vous; par quei responez.
—HAR. Hors de son fee; prest, &c.—*Et alii e contra.*

(49.)² § Thomas de Wycombe conust un prise, Avowere.
come baillif le Prince de Gales, et par la resoun qe
le Prince est seignur del honour de W., deinz quel
honour il ad un maner de E., deinz quel maner il
ad lete come regardant al honour, &c.; et pur ceo

¹ From H., and I.

² From H., and I., but corrected
by the record, *Placita de Banco*,
Easter, 20 Edw. III., R^o 252, d.
It there appears that the action was

brought by Henry Taillour, of
Evere (Iver), against Thomas
Gervery, of Wycombe, in respect of
a taking of two oxen.

No. 49.

A.D. 1346. because the plaintiff, who is resiant there, brewed contrary to the assise, he was amerced, and the amercement was affeered at four¹ pence, and for that the bailiff made cognisance.—*Sadelyngstanes*. Judgment of the cognisance, for he has said that the Prince is lord of an honour within which the manor is, and he claims a court leet within the manor, and he has not supposed the manor to be holden of the honour; judgment.—And this exception was not allowed.—Therefore *Sadelyngstanes* said that the bailiff could not maintain this cognisance, because he said that King John was seised of the same manor of Iver, and gave it to one J. to hold of him and of his heirs, and afterwards, in the time of King Edward, the grandfather of the present King, one W., tertenant of the land which we hold, and which is parcel of the manor, was distrained by one A., then lord of the honour, for non-appearance at his court leet, which leet the defendant claims as regardant to the said honour, and thereupon the person who was so distrained, and who was tenant of the manor, sued by petition in Parliament, showing how he was the King's tenant, as of his crown, and was distrained by another person for an amercement in the leet, whereupon,

¹ forty, according to the record.

No. 49.

ge le pleintif qest reseaut, &c., bracea countre A.D. 1346.
lassise si fut il amercie, et lamercyement affere a
iiij*d.*, et pur ceo qil conust.¹—*Sadel.* Jugement de
la conissance, qar il ad parle qil est seigneur dun
honour deinz quel le maner est, et cleyme lete
deinz le maner, et nad pas suppose le maner estre
tenu del honour; jugement.—*Et non allocatur.*—Par
quei *Sadel.* dit qil ne poait pas cele conissaunce
meintener, qar il dit qe le Roi Johan fut seisi de
mesme le maner de E., et le dona a un J. a tener
de luy et de ses heirs, et puis, en temps le Roi E.
laiel, un W., terre tenant de la terre quel nous
tenoms, qest parcele del maner, fut destreint par un A.
adonques seigneur del honour par noun venue a sa lete,
quel lete il cleyme come regardant al dit honour, sur
quei celui qe fut issi destreint, et fut tenant del
maner, suist par petition en parlement coment il fut
tenant le Roi come de sa corone, et destreint par autre
pur amercyement de lete, sur quei, pur ceo qe celi

¹ The cognisance was, according to the record, " Thomas, . . . ,
" ut ballivus Edwardi Principis
" Walliæ honoris sui de Walyng-
" ford, cognoscit captionem præ-
" dictam, &c., dicit enim quod
" idem Princeps est dominus
" Castri et honoris de Walyng-
" ford, ad quem quidem
" honorem idem Princeps habet
" quandam letam spectantem in
" prædicta villa de Evre semel
" per annum, post diem voca-
" tum Hokeday per rationabilem
" summonitionem tenendam, ad
" quam quidem letam omnes
" infra procinctum villæ de Evre
" prædictæ residentes per rationa-
" bilem summonitionem venire
" debent, Et dicit quod idem
" Willelmus [*sic*] est unus de
" decennariis villæ de Evre præ-

" dictæ, et infra procinctum ejus-
" dem villæ residens, Et pro eo quod
" idem Willelmus [*sic*], ut unus de
" decennariis villæ prædictæ ad
" præsentandum in eadem leta
" præsentabilia, prout moris est,
" per rationabilem summonitionem
" ei factam, ad quandam letam
" tentam in prædicta villa de Evre
" die Jovis proxima ante Festum
" Translationis Sancti Thomæ
" Martyris anno regni domini Regis
" nunc Angliæ decimo nono non
" venit, idem Willelmus [*sic*] amer-
" ciatu fuit, et ad quadraginta
" denarios per pares suos afforatus,
" Et sic dicit quod ipse prædictis
" die et anno pro prædictis quad-
" raginta denariis, ut ballivus præ-
" fati Principis honoris prædicti
" cepit prædictos boves."

No. 49.

A.D. 1346. because a person who was the King's tenant, as of his crown, could not be distrained to attend another person's leet, judgment was given in Parliament¹ that he should be discharged of such attendance. And *Sadelyngstanes* made *profert* of the record, and demanded judgment whether, contrary to that discharge by judgment, the defendant could maintain this cognisance.—And the *Recordari* in this case had been sued in the county of Buckingham, and the petition which was sued in Parliament purported that whereas he held the manor of Iver which is in Berkshire, &c., as above.—*Thorpe*. You see plainly how our object is to charge the manor of Iver which is in the county of Buckingham, in which the writ is brought, and he alleges a judgment to discharge the manor of Iver which was supposed to be in Berkshire, which is a different county, and that judgment cannot refer to the manor which we say is charged; therefore we demand judgment, and pray the return.

¹ The judgment was given in the Court of King's Bench, to which the petition appears to have been referred by the Parliament. See p. 335, notes 2 and 5.

No. 49.

[qe fut tenant le Roi, come de sa corone, ne put estre A.D. 1346. destreint a autri lete, fut agarde en parlement qil]¹ fut descharge de cele. Et myst avant le recorde, et demanda jugement si encountre cel descharger par jugement il poet ceste conissance meyntener.²—Et cest *Recordari* fut suy en le counte de Bukingham, et la peticion qe fut suy en parlement voleit qe come il tint le maner de E. qest en le counte de Berkes,³ &c., *ut supra*.—*Thorpe*. Vous veietz bien coment nous sumes a charger le maner de E. qest en le counte de Bukingham, ou le brief est porte, et il allegge un jugement de descharger le maner de E. qe fut suppose en le counte de Berkes qest autre counte, quel jugement ne poet referer a cel quel nous dioms estre charge; par quei nous demandoms jugement et prioms retourn.⁴—*Moubray*.

¹ The words between brackets are omitted from I.

² According to the record the plea was, "Henricus dicit quod prædictus Thomas, ut ballivus, &c., in jure præfati Principis, captionem prædictam ratione prædicta justam cognoscere non potest, dicit enim quod cum prædictus Thomas in advocare suo prædicto supponit quod cum prædictus Princeps sit dominus honoris de Walyngford, ad quem quidem honorem idem Princeps habet quandam letam spectantem in prædicta villa de Evre semel per annum post diem vocatum Hokeday per rationabilem summonitionem tenendam, idem Thomas ad tale advocare in hac parte manutenendum admitti non debet, quia dicit quod alias in Curia domini Edwardi Regis patris domini Regis nunc [coram Justiciariis omitted] ad placita coram ipso domino Rege tenenda assignatis compertum fuit quod prædictum manerium de Evre, cum pertinentiis, tenetur

"de domino Rege ut de corona sua et non de prædicto honore de Walyngford. Et profert hic in Curia quoddam recordum sub pede sigilli, &c., quod hoc testatur, in hæc verba." Here follows the complete record transcribed from the *Placita coram Rege* of Easter Term, 17 Edward II. The plea concludes, "Et petit judicium si prædictus Thomas captionem prædictam contra prædictum recordum cognoscere potest in hac parte."

³ I., Bukingham.

⁴ The replication was, according to the record:—"Thomas dicit quod prædictus Henricus queritur captionem prædictam fieri in villa de Evre in Comitatu Buckinghamiæ, et recordum quod hic profert facit mentionem de quadam villa de Evre in Comitatu Berkesciræ, unde petit judicium si ad recordum illud respondere tenetur."

[The manor of Evre in Berks is mentioned in the King's Bench record.]

No. 49.

A.D. 1346. —*Moubray*. We are quite agreed that the manor of Iver, which you expect to charge, is in the county of Buckingham, and with regard to that we have said that the same manor was discharged by judgment; and with regard to your statement that the manor which was discharged was supposed to be in another county, and consequently not the same manor, I answer in this way—that what was said in the petition as to the manor being in one county or in another was not at all of the substance of the matter; for even if the name of the county had been omitted the petition would not have been any the worse, and therefore a supposition which is not material does not deprive me of the advantage of discharging the manor now, since I am ready to aver that it is the same manor.—*Grene*. Still a petition in Parliament must be in accordance with proper form in respect of necessary matter just as much as an original writ, because if issue had then been taken, on behalf of the person who made the distress, that the manor was not holden immediately of the King, but was holden of the honour, that question must have been tried, and it could not have been if he had not included in the petition the county in which the question could be tried; therefore this judgment in respect of that manor in that county could not by any possibility discharge tenements in another county.—*Blaykeston*. A manor can well enough extend into divers villis, and into divers counties; and now by our suit we suppose only that the distress was taken in a place in the vill of Iver, which is in the county of Buckingham, and, although it is supposed by the petition that the manor is in another county, yet since it is consistent that the manor may extend into a vill in another county, and that fact is to be understood by the averment which we have tendered,

No. 49.

Nous sumes bien a un qe le maner de E., quel A.D. 1346.
 vous bietz a charger, est en le counte de Bukingham,
 et a ceo avoms dit qe mesme le maner fut des-
 charge par jugement; et a ceo qe vous ditez qe le
 maner qe fut descharge fut suppose en autre
 counte, et par taunt nent mesme le maner, et a ceo
 jeo respound en tiel manere qe en la peticion ceo
 qe fut parle qe le maner fut en un counte ou en
 autre ne fut rienz de la substaunce de la matere;
 qar mesqe ceo ust este entrelesse la peticion ne ust
 este de plus pys, par quei tiel chose suppose qe
 nest pas de la matere, ne moy toude pas qe jeo
 ne le deschargeray a ore, puis qe jeo voille averer
 qe cest mesme le maner.—*Grene*. Unqore peticion
 en parlement covent estre auxi formele de chose
 gest necessarie come original, qar si issue ust este
 pris adonques pur celuy qe fit là destresse qe le
 maner ne fut pas tenu del Roi immediate, mes fut
 tenu del honour, ceste chose covendreit¹ estre trie,
 et ceo ne put estre sil nust mys en la peticion le
 counte ou la chose put estre trie; par quei cest
 jugement de cel maner en cel counte par nulle
 possiblete put descharger tenementz en autre counte.
 —*Blaik*. Un maner purra assetz bien esteindre en
 divers villes et en divers countes; et ore par
 nostre sute nous ne supposoms mesqe la destresse
 fut pris en un lieu en la ville de E. gest en le
 counte de Bukingham, et coment qe par la peticion
 est suppose qe le maner est en autre counte, puis
 qil estoit qe le maner purra esteindre en la ville
 en autre counte, quele chose est a entendre par
 laverement quel nous avoms tendu daverer, saver qe

¹ I., put.

No. 50.

A.D. 1346 that is to say that what is now in dispute is the same manor that was heretofore discharged on petition, therefore, &c.—SHARSHULLE. It may be as you say, but the Court will not so understand it until it is pleaded by you ; but by the manner of your plea the reverse will rather be understood, for you want to aver that this is the same manor that was heretofore supposed to be in another county, and therefore contrary to that which was heretofore supposed.—And the opinion of the Court was that inasmuch as the manor had been supposed to be in another county, and that was the manor which had been discharged, he could not be admitted to say that what was now in dispute was the same manor, and consequently could not be admitted to discharge it. — Therefore the plaintiff was afterwards nonsuited.

*Quare
impedit.*

(50.) § The King brought a *Quare impedit* against the Abbot of Abingdon, and counted that one John de Ellesfelde was seised of the advowson and presented one Robert de Brightwelle, and that he held the same advowson of the King *in capite*, and that he aliened the same advowson without license, wherefore our Lord the King seised the advowson, and so it belongs to the King to present.—*Pole*. We do not admit that John held the advowson of the King, nor that he aliened, but we say that Robert was not admitted on his presentation ; ready, &c.—*Thorpe*. You see plainly how the title of our Lord the King is the matter which gives him right, and that is that John was seised of the advowson and aliened in mortmain, and that is the title supposed for giving the King the presentation, without having regard to the question whether John presented or not, and that title is not denied by him ; therefore

No. 50.

ceo qest ore en debat est mesme le maner qe A.D. 1346.
 autrefoitz par peticion fut descharge, par quei, &c.—
 SCHARS. Il put estre come vous parles, mes Court
 nel entendra pas tange il soit plede par vous; mes
 par la manere de vostre ple le revers serra plus
 tost entendu, qar vous voillez averer qe cest mesme
 le maner qe fut autrefoitz suppose en autre counte,
 et a taunt a contrarie de ceo qe autrefoitz fut
 suppose.—Et opinion de Courr fut qe par taunt qe
 le maner fut suppose en autre counte, et cel
 descharge, qil ne poait estre resceu a dire qe ceo
 dount le debat est a ore fust mesme le maner, et
per consequens nient resceu del descharger.—Par quei
 apres le pleintif fut nounsuy, &c.¹

(50.)² § Le Roi porta *Quare impedit* vers Labbe *Quare
impedit.
[Fitz.,
Quare
impedit,
61.]*
 de Abyndone, et counta qun J.³ fut seisi del avoweson
 et presenta un R.⁴, le quel tint mesme lavoweson
 del Roi en chief, le quel J.³ aliena mesme lavoweson
 saunz conge, par quei nostre seignur le Roi seist
 lavoweson, et issi appent, &c.—[*Pole*. Nous ne
 conissoms pas qe J.³ tint lavoweson del Roi, ne qil
 aliena, mes nous dioms qe R.⁴ ne fut pas resceu a
 son presentement; prest, &c.]⁵—*Thorpe*. Vous veietz
 bien coment le tittle nostre seignur le Roi est la
 chose qe lui doune dreit, et cest qe J.³ fut seisi del
 avoweson et aliena en morte meyn, quel est suppose
 tittle a doner le Roi presentement, saunz aver regard
 le quel qil presenta ou noun, quel chose nest pas

¹ So on the roll, "Prædictus
 "Henricus non est prosecutus. Ideo
 "ipse et plegii sui de proseguendo
 "in misericordia, &c. Querantur
 "nomina plegiorum, &c. Et præ-
 "dictus Thomas habeat returnum
 "prædictorum averiorum, &c. Et
 "Henricus inde sine die, &c."

² From H., and I. The report is
 in continuation of Y B., Mich., 19
 Edw. III., No. 77 (pp. 464-467), and

of Y.B., Hil., 20 Edw. III., No. 33
 (above pp. 108-115). The record
 (already cited) is *Placita de Banco*,
 Mich., 19 Edw. III. R^o 539. The
 presentation in dispute was to the
 church of Farnborough (Berks).

³ MSS. of Y.B., W.

⁴ MSS. of Y.B., J.

⁵ The words between brackets are
 omitted from I.

No. 50.

A.D. 1346. we demand judgment for the King, and we pray a writ to the Bishop.—SHARSHULLE. This is a writ touching right, but mixed with the question of possession, and I tell you plainly that we shall never uphold it without an allegation of possession by presentation. And as to your statement that an answer must be given to the title which gives the King a right, without having regard to possession, it is not so in this action; for if the King now fails with regard to the presentation mentioned in his count, he will on another day take another presentation, and so there will be no damage to him; therefore, &c.—*Thorpe*. Sir, on the matter shown the King could not have any writ of Right of Advowson, because he could not count of the seisin of any one on which an action is given to him, and therefore this is his writ of Right; and the title which gives a right to the King to have the advowson, that is to say, that John was seised of the advowson and aliened it, is not denied. And as to his statement that, on this writ, the presentation is traversable without answering to the King's right, see from what I have to say that it is not so:—for suppose that King Richard, who lived before time of memory, had presented the last parson, and we had counted of that presentation, the Court would not have listened to us, because the presentation was alleged to have been before time of memory, and in that case it would have been necessary for us to feign a presentation on behalf of the King, on which issue could not be taken without answering as to the right which the King has.—SHARSHULLE. Neither *Quare impedit* nor *Jurata utrum* is limited as other writs are; therefore you might very well count of a presentation before time of memory.—*Thorpe*. A writ of Right of Advowson is limited; therefore a *Quare impedit*, which is of an inferior nature, is

No. 50.

dedit de luy; par quei nous demandoms jugement A.D. 1346. pur le Roi, et prioms brief al Evesqe. — SCHARS. Cest un brief de dreit mixt en la possession, et jeo vous die bien que nous le meyntendrons jammes saunz possession allegger par presentement. Et a ceo que vous dites que al tittle que doune al Roi dreit homme respondra, saunz aver regarde a la possession, il nest pas issi en ceste accion; qar si le Roi faille de son presentement en son counte a ore, il prendra autre jour un autre presentement, et issi nul damage; par quei, &c.—*Thorpe*. Sire, sur la matere moustre le Roi ne poet nul brief de Dreit davowesoun aver, pur ceo que il ne put counter de nuli seisine de qi accion lui est done, et par taunt cest son brief de Dreit; et le tittle que doun dreit al Roi daver lavowesoun, saver, qil fut seisi del avowesoun et aliena, nest pas dedit. Et a ceo qil dit que le presentement en cest brief est traversable saunz respondre al dreit le Roi, veietz ci que noun:—qar jeo pose que le Roi Richard, que fut avaunt temps de memore, presenta la drein persone, et nous ussoms counte de cel presentement, la Court ne nous orreit pas, pur ceo qil fut allegge devant temps de memore, en quel cas il nous covensist feindre un presentement pur le Roi, sur quel issue ne put estre pris saunz respondre al dreit que le Roi ad.—SCHARS. *Quare impedit* ne *Jure de utrum* ne sount pas limites come les autres briefs sount; par quei vous averetz bien a counter dun presentement avant temps de memore.—*Thorpe*. Un brief de Dreit davowesoun est limite; *ergo* par resoun le *Quare impedit*, qest de meyndre nature, est

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A.D. 1346. limited; and, moreover, if a presentation before time of memory be admitted for title, for the same reason if it were traversed, the question would be tried by jury. The consequence is false, because that which is before time of memory does not fall within the knowledge of any one.—And it was said in this plea that on a writ of Right for the King the half-mark will not be tendered for the time, because a party will not join the mise against him, but the verdict of a jury will be taken in lieu of that of the Grand Assise.—And note also that one cannot have final judgment against the King, because there is no land in England to which he has not in some way a right.—And this was pleaded in the last term, and now the record was read, and it purported that, after the King had replied to the answer as above, the Abbot said that John never had anything in the advowson (ready, &c.), but said that Robert was presented by his predecessor and not by John.—*Thorpe*. Now we demand judgment, because he waived the first answer, and gave another, as appears above, and now he has waived that other, and has returned to his first answer, to do which he ought not to be admitted; and we pray a writ to the Bishop.—*Derworthy*. Because it appeared to the Court that we could not have the second answer we waived it and returned to the first; and we demand judgment whether we shall not be admitted to the first plea.—And they were adjourned, &c.

Waste.

(51.) § Peter de Handlo¹ brought a writ of Waste against one J.,¹ and supposed that he held of the plaintiff for term of life by the assignment of one A.,¹ who made a lease to the aforesaid J.¹ for the same term, and that the reversion was granted to B.¹ for the whole of his life, with remainder after B.'s death to Peter and his heirs; and he counted in accordance with the writ.¹—

¹ For the real names, and for the declaration, as it appears on the roll, see p. 343, notes 4 and 5. The names and the facts are confused in the report.

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limite; et auxi si homme resceive presentement avant A.D. 1346. temps de memore pur tittle, par mesme la resoun, si ceo fut traverse, homme lenquerra. *Consequens falsum*, qar il ne chiet pas en conissaunce de homme.—Et fut dit en ceo ple gen brief de Dreit pur le Roi homme ne tendra pas demi marc pur le temps, pur ceo qe partie ne joindra pas myse vers luy, mes enqueste serra pris en lieu de graunde assise.—Et *sic nota*, homme navera pas jugement final vers le Roy, pur ceo qil ny ad nulle terre en Engleterre qil nad *quodam modo* [Fitz., *Jugement*, 232.] dreit.—Et ceo fut plede lautre terme, et ore le recorde fut lieu, qe voleit qe apres qe le Roi avoit rejoint a cel respons *ut supra*, qe Labbe dit qe J.¹ navoit unques riens en lavowesoun, prest, &c., mes dit qe R. fut presente par son predecessour et ne mye par J.²—*Thorpe*. Ore demandoms jugement, puis qil weyva le primer respons, et dona un autre, *ut patet*, quel autre il ad a ore weyve, et est retourne a son primer respons, a quei il ne deit avener; et prioms brief al Evesqe.—*Der*. Pur ceo qil sembla a la Court qe nous ne purrioms aver le secunde respons, nous le weyvames et retournames al primer; et demandoms jugement si al primer plee nous ne serroms mie resceu.—*Et adjornantur, &c.*³

(51.)⁴ § Piers de Hanlo porta brief de Wast vers Wast. un J., et supposa qe il tint a terme de vie del pleintif del assignement un A., qe cele al avant dit J. lessa a mesme le terme de ceo en fist a un B. a tote sa vie, et apres soun deces le remeindre a Piers et as ses heirs; et counta accordant, &c.⁵—

¹ H., W.; I., le Roi.

² MSS. of Y.B., W.

³ The report is continued in Y.B., Mich., 20 Edw. III., No. 74. For the conclusion of the record see Y.B., Easter to Mich., 19 Edw. III., p. 467, note 1.

⁴ From H., and I., until otherwise stated, but corrected by the record, *Placita de Banco*, Easter, 20 Edw.

III, R^o. 241. It there appears that the action was brought by Nicholas son of John de Handlo against William de Gravele, in respect of waste in gardens in Acton Burnel, which he held for the life of Thomas Oseberne.

⁵ The count or declaration was, according to the record, "quod, " cum quidam Johannes de Handlo

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A.D. 1346. *Mutlow*. You see plainly how he supposes the reversion to have been granted to B. for his life, and the remainder to Peter who now sues, which B. is still living; judgment whether, while B. is living, you ought to maintain this writ.—*Grene*. And we demand judgment, since the inheritance belongs to us, and this action cannot be maintained by B. by reason of the feebleness of his estate, and it is not an intendment of law that this waste should be committed with impunity; therefore we demand judgment, &c.—*WILLOUGHBY* to *Mutlow*. Consider the matter carefully, for, although you take the exception to the writ, we hold it to be to the action, and as such we shall adjudge it to be.—*Mutlow*. In God's name adjudge it in accordance with that which you see ought to be done.—And they were adjourned.

Waste. § *Mutlow* took exception to the writ on the ground

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Mutl. Vous veietz bien coment il suppose la rever- A.D. 1346.

sion estre graunte a B. a sa vie, et le remeindre a Piers qore suist, le quel B. est en pleyne vie; jugement si, vivant B., devetz ceste brief maintenir.¹

—*Grene.* Et nous jugement puis lenheritaunce est a nous, et ceste accion ne poet estre meyntenu par B. pur la feblesse de son estat, et ley ne voet pas qe ceste wast soit despuny; par quei nous demandoms jugement, &c.—*WILBY* a *Mutl.* Avisetz vous bien, qar, coment qe vous donetz le chalange al brief, nous le tenoms al accion, et pur tiel nous lajuggeroms.—

Mutl. Ajuggetz le de part Dieux come vous veietz qe soit affaire.—*Et adjornantur, &c.*²

§ *Mutl.*³ chalengea le brief⁴ de ceo qest suppose *Wast.*

“ fuisset seisitus de uno mesuagio
“ et duobus gardinis, cum per-
“ tinentiis, in Acton Burnel, qui
“ quidem Johannes tenementa illa
“ dimisisset præfato Willelmo ad
“ totam vitam ipsius Thomæ, et
“ postea prædictus Johannes con-
“ cessisset reversionem eorundem
“ tenementorum, quæ ad ipsum
“ Johannem post mortem ejusdem
“ Thomæ reverti deberent, cuidam
“ Galfrido de Scardeburghe et
“ heredibus ipsius Galfridi, virtute
“ cujus concessionis prædictus
“ Willelmus se attornavit eidem
“ Galfrido, qui quidem Galfridus
“ postea concessisset reversionem
“ prædictorum tenementorum præ-
“ fato Johanni de Handlo ad vitam
“ ipsius Johannis, ita quod post
“ ejus mortem tenementa illa
“ eidem Nicholao et heredibus suis
“ remanerent, virtute cujus con-
“ cessionis prædictus Willelmus
“ eidem Johanni se attornavit, &c.,
“ idem Willelmus fecit vastum,
“ venditionem, et destructionem
“ in prædictis tenementis, vide-
“ licet prosternendo et vendendo

“ ducentas pirus, pretii cujuslibet
“ decem et octo denariorum, tres-
“ centa pomaria, pretii cujuslibet
“ duodecim denariorum, ad exhere-
“ dationem, ipsius Nicholai, &c.”

¹ The plea was, according to the record, “ Willelmus . . . dicit quod, ubi prædictus Nicholaus per breve suum supponit quod prædictus Galfridus concessit reversionem prædictorum tenementorum prædicto Johanni ad totam vitam suam, et quod post ejus mortem eadem tenementa prædicto Nicholao et heredibus suis remanere deberent, idem Johannes superstes est, et in plena vita Et petit judicium si prædictus Nicholaus, vivente prædicto Johanne, actionem super isto brevi de vasto habere debeat, &c.”

² An adjournment appears on the roll, but nothing further.

³ This report of the case is from L., and C. It is there preceded by what appears to be a very inaccurate copy of the original writ.

⁴ The words le brief are omitted from C.

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A.D. 1346. that it supposed a person other than the defendant to have a mesne estate in the reversion for his life, and that person was not supposed to be dead either by writ or by count.—The exception was not allowed, because neither the writ nor the count ought to be in such form as to suppose his death.—*Mutlow* then alleged that John de Handlo was still living, and said that he did not understand that, while John was alive, the plaintiff ought to be answered with respect to this writ.—*Thorpe*. That is to our action, and we understand that a mesne estate in the reversion, and particularly when that is only of a freehold, does not oust us from this action, and we demand judgment on the point, and we pray, since you do not deny the facts, that you be convicted of the waste. And further we tell you that the right was limited to us as above by fine.—*Mutlow*. If it appears to you that he ought in this case to be answered with respect to such a writ, we are ready to answer.—*WILLOUGHBY*. We take your answer to be to the action, and so it shall be entered, &c.

Covenant. (52.) § One J.,¹ as one of the heirs of one B.,¹ brought a writ of Covenant against R.,¹ and counted that the manor of R.,¹ which is partible, descended from one A.¹ to R.,¹ the defendant, and to B.¹ the father of J.,¹ who brought the writ, as to two sons, and that they made partition of the manor between them, in such a manner that R., in consideration of his purparty, agreed to pay the services for the whole manor to the chief lord for ever, and to acquit the heirs of B. And he said that he was one of the heirs of B. And he said that from B. a moiety of this manor, with other tenements descended to the plaintiff and his brother, because

¹ For the real names, see p. 347, note 2, and p. 349, note 1.

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gautre ad estat mene en la reversion pur sa vie, A.D. 1346. et cel par brief ne count nest pas suppose mort.—*Non allocatur*, qar le brief ne serra pas de tiele fourme de supposer sa mort, ne le counte.—*Mutl.* alleggea donques qe J. est en pleine vie, et dit qil nentendist pas qe, vivant luy, a ceo brief deveireit il estre respondu.—*Thorpe.* Cest a nostre accion, et nous entendoms qe mene estat en la reversion, et nomement de fraunctenement, ne nous ouste pas de ceste accion, et de ceo demandoms jugement, et prioms,¹ del houre qe vous ne deditetz pas, qe vous soietz atteint. Et outre vous dioms qe par fine si fuit le dreit taille a nous, *ut supra.*—*Mutl.* Sil vous semble qe a tiel brief il serra el cas respondu, prest sumes, &c.—*WILBY.* Nous pernomms vostre respouns al accion, et issint serra entre, &c.

(52.)² § Un J., come un des heirs un B., porta Covenant. brief de Covenant vers R., et counta qe le maner de R., qest departable, descendi dun A. a R., defendant, et a B. pere J. qe porte le brief, come a deux fitz, les queux departirent le maner entre eux, issi qe R., pur sa purpartie, graunta de paier les services pur tut le maner a chief seignur a toux jours, et dacquiter les heirs B. Et dit qe il fut un des heirs B. Et dit qe de B. la moite de cel maner, od autres tenementz, descendi al plentif et

¹The words et prioms are omitted from L.

² From H., and I., until otherwise stated, but corrected by the record, *Placita de Banco*, Easter, 20 Edw. III., R^o. 306. It there appears that the action was brought

by Peter de Filethe (who appeared by guardian) against Robert de Filethe in respect of a covenant made between John son of John de Filethe, Peter's father, one of whose heirs Peter was, and Robert.

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A.D. 1346. these lands are partible. And he said that a moiety of the manor in respect of which the covenant was made was allotted entirely to him, and therefore he prayed the defendant to acquit him alone in accordance with the covenant, and that the defendant would not do so, and still will not. And he made *profert* of the deed which purported that the defendant had agreed to acquit B. and his heirs.—*Moubray*. Judgment of the writ¹:

¹ It will be observed that this plea in abatement of the writ is followed (p. 351, *Skipwith*) by one in abatement of the count or declaration. This is contrary to the course, which had already become usual, in accordance with which the plea in abatement of the declaration

preceded that in abatement of the writ. In the passage on p. 351, it is true, the reading in one of the MSS. is *brief*, and not *counte*, but as the word *demonstrance* occurs later in both MSS. in relation to the same matter (p. 353) the plea could hardly have been to the writ.

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soun frere pur ceo qils sount departables. Et dit qe la A.D. 1346.
 moyte de maner de quei le covenant se fist fut allote
 enterement a luy, par quei il luy pria qe il luy acquitast
 soulement solom le covenant, il ceo faire ne voleit, ne
 unquore ne voet. Et myst avant le fait qe voleit qil
 savoit graunte dacquiter B. et ses heirs.¹—*Moubray.*

¹ The declaration was, according to the record, "quod, cum, die
 " Veneris proxima ante dominicam
 " in Ramis Palmarum anno regni
 " domini Regis nunc quinto, apud
 " Filethe, super partitione inter
 " prædictos Johannem filium
 " Johannis et Robertum filium et
 " heredem prædicti Johannis patris,
 " &c., facienda de omnibus terris, et
 " tenementis, quæ eis descenderunt
 " post mortem ipsius Johannis
 " patris, &c., quæ sunt de tenura
 " de Gavelkynde, et partibilia inter
 " heredes masculos, &c., convenisset,
 " et per quoddam scriptum inden-
 " tatum inde inter eos confectum
 " amicabile divisio ordinata fuisset
 " et facta, videlicet quod totum
 " manerium de Filethe, cum
 " omnibus pertinentiis, red-
 " tibus, et aliis juribus suis ad
 " manerium illud spectantibus,
 " excepto molendino de Filethe
 " cum stagno, et exceptis quibus-
 " dam peciis terræ et prati, &c.,
 " . . . assignatum fuit pro
 " parti prædicti Roberti Et molen-
 " dinum illud, et alia tenementa
 " prædicta excepta, &c., et etiam
 " quædam domus in Tenterdene, et
 " integre totum tenementum quod
 " eis hereditarie accidit post mor-
 " tem prædicti Johannis patris, &c.,
 " in Denum de Blecchind Crotind
 " Stepherst halle et Bogind, cum
 " juribus et pertinentiis suis,
 " assignata fuerunt proparti præ-
 " dicti Johannis filii Johannis, ita

" quod prædictus Robertus et
 " heredes sui sive assignati, &c.,
 " dominis totius integri tenementi
 " de Filethe omnia servitia annu-
 " atim debita et consueta facerent
 " et redderent, et de servitiis illis
 " prædictum Johannem heredes et
 " assignatos suos acquietarent, ita,
 " videlicet quod si contingeret quod
 " redditus ad prædictum manerium
 " de Filethe pertinens et proveniens
 " ad defensionem totius integri
 " tenementi de Filethe sufficere
 " non posset, tunc prædictus
 " Johannes et heredes sui annuatim
 " solverent prædicto Roberto et
 " heredibus suis portionem suam,
 " videlicet, tantum quantum
 " pertinet ad acram de illo tene-
 " mento quod recepit ad suam
 " portionem de tenemento de
 " Filethe usque ad perimplendum
 " totam defensionem totius tene-
 " menti prædicti Et prædictus
 " Johannes et heredes vel assignati
 " sui facerent et redderent pro
 " prædictis domo in Tenterdene et
 " aliis tenementis prædictis in
 " Denum de Blecchind Crotind
 " Stepherst halle et Bogind
 " capitalibus dominis feodi, &c.,
 " servitia inde debita et consueta,
 " quod quidem manerium præ-
 " dictum integre, exceptis sex
 " acris terræ in quadam pecia quæ
 " vocatur Chelyntanesfeld, et
 " septem acris terræ in quadam
 " alia pecia vocata Northstontye,
 " tenetur de Archiepiscopo Can-

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A.D. 1346. for you see plainly how it is supposed by his writ that R. ought to acquit the heirs of B., whereas by the specialty the acquitting is granted as much to B. as to his heirs, and so the writ is not warranted by the specialty; judgment of the writ.—*Grene*. Our action is taken for the heir, and therefore it is sufficient to count that the acquitting relates to him, and, if it were to be recited in the writ that he agreed to acquit B. and his heirs, that would be to suppose that B. was still living, and on that account our action would not be maintainable; therefore it suffices to show, on behalf of the person who makes use of the action, that the liability to acquit was acknowledged as affecting him.—*Skipwith*. Again, judgment of the count: for he has supposed that we ought to acquit him by reason of the covenant, and that we have not done so, and he does not show that he has suffered

<p>“tuariensi per servitium redditus “triginta duorum solidorum et sex “denariorum et oboli per annum, “et faciendi quasdam custumas “videlicet Wodegavel, Swyngavel, “et Somerhous, seu pro illis cus- “tumis sex solidos decem denarios “et obolum per annum, ad “voluntatem domini, &c., et sol- “vendi quatuordecim gallinas et “dimidiam, vel duos solidos et “quinque denarios ad voluntatem “&c., centum et quadraginta et “quatuor ova, vel septem denarios “quadrantem per annum, ad “voluntatem, &c., et faciendi servi- “tium metendi quinque acras terræ “quinque Daywerkes de terra “metenda secundum consuetu- “dinem patriæ, vel sex solidos et “octo denarios per annum ad “voluntatem, &c., arandi tres acras “unam rodam et septem Daywerkes</p>	<p>“arruræ terræ, vel quinque solidos “duos denarios per annum, ad “voluntatem, &c., et faciendi tres “decim averagia ad manerium “prædicti Archiepiscopi de Cher- “ryngge, si Archiepiscopus per tot “vices ibidem per annum venerit, “seu pro quolibet averagio quatuor “denarios, ad voluntatem, &c. Et, “si tam sæpe ibidem non venerit, “ad quemlibet adventum avera- “gium, &c., seu quatuor denarios, “ad voluntatem, &c., et si sæpius “ibidem venerit nihilominus de “tresdecim averagiis, seu pro “averagio quatuor denariorum “tantum, erit contentus. Et præ- “dictæ sex acræ terræ tenentur de “Johanne de Broscombe per servi- “tium redditus sexdecim denari- “orum per annum et duarum “gallarum, vel pro gallinis “quatuor denariorum, ad volup-</p>
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Jugement du brief: qar vous veietz bien coment A.D. 1346.
 par soun brief est suppose qe il dust acquiter les
 heirs B., ou par lespecialte lacquitaunce est graunte
 taunt avant a B. come a ses heirs, issi le brief
 nent garranti del especialte; jugement du brief.—
 [Grene. Nostre accion est pris pur leir, par quei a
 lui suffist a counter qe lacquitaunce refiert, et, si
 homme recitast en le brief]¹ qil se graunta dacquiter
 B. et ses heirs, ceo serreit a supposer qe B. fut en
 vie, et par taunt nostre accion nent maintenable;
 par quei pur celui qe use laccion suffist a moustrer
 qe lacquitaunce fut conu a luy.—Skip. Unquore
 jugement du counte²: qar il ad suppose qe nous lui
 duissoms acquiter par covenant, et qe nous nel
 avoms pas fait, et il ne moustre mye qe il est

" tatem domini, &c. Et septem
 " acrae terrae praedictae tenentur de
 " Thoma de Rokesle per servitium
 " duodecim denariorum per annum,
 " quae quidem servitia de integro
 " praedicti manerii de Filethe debita
 " praedictus Robertus integre fecit
 " capitalibus dominis, &c., tota
 " vita praedicti Johannis patris, &c.,
 " et ipsum inde acquietavit eo quod
 " redditus manerii praedicti de
 " Filethe ad partem praedicti
 " Roberti remanens virtute con-
 " ventionis praedictae excedit servitia
 " capitalibus dominis debita, post
 " mortem cuius Johannis patris, &c.,
 " praedicta tenementa in praedicto
 " manerio superius excepta, simul
 " cum aliis terris et tenementis quae
 " non sunt parcella dicti manerii
 " de Filethe, descenderunt pra-
 " dicto Petro et cuidam Johanni
 " fratri suo, ut filiis et heredibus,
 " secundum modum tenurae de
 " Gavelkynde, &c., et inter eos
 " partita fuerunt, ita quod pra-
 " dictum molendinum et alia tene-

" menta praedicta in praedicto
 " manerio superius excepta
 " assignata fuerunt pro parti pra-
 " dicti Petri, et alia tenementa pro
 " parti praedicti Johannis fratris,
 " &c., post cujus assignationem
 " praedictus Robertus fecit et solvit
 " capitalibus dominis servitia, &c.,
 " et ipsum inde acquietavit usque
 " octo annis jam elapsis ante diem
 " impetrationis brevis quod pra-
 " dictus Robertus servitia praedicta
 " facere non curavit, et licet saepius
 " requisitus. &c., conventionem
 " praedictam tenere contradicit,
 " unde dicit quod deterioratus est,
 " et damnum habet ad valentiam
 " centum librarum Et inde producit
 " sectam, &c. Et profert hic in
 " Curia quandam partem praedicti
 " scripti indentati inter praedictos
 " Robertum et Johannem filium
 " Johannis, quod praemissa,
 " testatur, &c."

¹ The words between brackets are omitted from I.

² I., brief,

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A.D. 1346. any damage by distress made upon him for the rent, and this suit cannot be given unless he can show that he has suffered damage ; wherefore, &c.—*Grene*. We think that, since the covenant is that you are to acquit us, and we have surmised against you that you have not done so, and that so you are proceeding contrary to the covenant, therefore if you understand that, if we have not suffered damage by distress, we shall not have this suit, that goes to the whole matter, and you can abide judgment thereon at your peril ; and we demand judgment whether this action is not sufficiently maintainable for us without showing any further matter.—*Skipwith*. And we understand that the suit is never maintained unless by reason of the damage which has befallen the plaintiff ; and, since you do not show such damage, judgment ; and, if the Court considers that the declaration is good, we are ready to answer.—*HILLARY*. The covenant is not conditional on your being distrained for default of acquittal of services, but is simply that you have to acquit him, and he has surmised that you have not done that ; therefore it seems that he has met you sufficiently ; therefore answer.—*Moubray*. Again, judgment of the writ : for he brings this writ as one of the heirs of B., and thereby it is supposed that there are other heirs living ; and by the covenant itself it is supposed that it was made to the ancestor to acquit him and his heirs, and therefore this suit is given to those who are heirs, and one is omitted as the writ supposes ; judgment.—*Grene*. This covenant is that he is to acquit the ancestor and his heirs of the services due for the whole of the tenements which are allotted for our purparty, and that is supposed in our count ; therefore it falls to us alone to sue this suit ; therefore, &c.—And for that cause the writ was adjudged good.—*Skipwith*. We

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endamage par destresse fait sur lui pur la rente, A.D. 1346. et ceste sute ne poet estre done sil ne puisse moustrer qil est endamage; par quei, &c.—*Grene*. Nous quidoms qe puis qe le covenant est qe vous nous deveretz acquiter, et nous vous avoms sourmis qe vous nel avetz pas fait, et par taunt vous aletz encountre covenant, par quei si vous entendetz qe si nous ne soioms endamage par destresse qe nous naveroms pas ceste sute, ceo est a tut, et la poetz demurer a perille qe appent; et demandoms¹ jugement si ceste accion pur nous saunz plus de matere surmettre ne soit assetz meintenable.—*Skip*. Et nous entendoms qe sute nest jammes meyntenu forqe pur damage qe acrestreit a luy; et, puis qe vous ne moustrez pas cel, jugement; et si avis soit a la Court qe la demoustrance est bon, prest a respondre.—*HILL*. Le covenant nest pas si vous soietz destreint par defaute de sacquitance, [mes est simplement qe vous lui devetz acquiter],² et ceo ad il surmys qe vous navietz pas fait; par quei il semble qil vous ad assetz servy; par quei responez.—*Moubray*. Unquore jugement du brief: qar il porte ceo brief come un des heirs B., et en taunt est suppose qil y ad autres des heirs en vie; et par ceste covenant est suppose fait al auncestre dacquiter lui et ses heirs, et par taunt ceste sute done a ceux qe sont heirs, et un est entrelesse come le brief suppose; jugement.—*Grene*. Cest covenant est qil acquitera launcestre et ses heirs des services dues des tenementz queux sont trestouz allotes a nostre purpartie, et cest suppose en nostre counte; par quei a nous soul chiet ceste sute a suyr; par quei, &c.—Et par cele cause le brief fut agarde

¹ H., demander.² The words between brackets are omitted from I.

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A.D. 1346. tell you that you ought not to have an action: for we tell you that the tenements, of which you desire to deraign the acquittal by this covenant, are in gavelkind, and there is a custom in gavelkind lands that when an infant has passed the age of fifteen years he can aliene his land, and, in this case, after the infant had passed the age of fifteen years he aliened the land to one J.,¹ and took back an estate to himself and to his wife, and so the plaintiff is joint tenant of this land with his wife, and we demand judgment whether for a default in not acquitting the services of this land he can maintain this writ.—*Grene*. And we demand judgment since the plaintiff appears in Court by guardian, and it is thereby of record that he is still under age, and the defendant has confessed that we are now seised of the land, which cannot be any other than that which we had for our purparty, as we had it before, and moreover this action is not annexed to the land but to the person, and therefore a conveyance of the land does not oust us from this action.—*Skipwith*. It seems that it does oust you: for of common right this action on a covenant made

¹ For the real name, see p. 355, note 1

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bon.—*Skip.* Nous vous dioms qe vous ne devetz A.D. 1346.
 accion aver: qar nous vous dioms qe les tenementz
 des queux par cël covenant vous biez deresner
 lacquitaunce sont en Gavilkynde, et il y ad un tiele
 usage illoeqes qe quant un enfant est passe lage de
 xv. aunz qil purra aliener sa terre, et apres qe le
 pleintif fut passe lage de xv. aunz il aliena la terre
 a un J. et reprist estat a luy et a sa femme, et
 issi est le pleintif joyntenant de ceste terre od sa
 femme, et demandoms jugement si pur defaute de
 nounacquiance des services de ceste terre il puisse
 ceo brief meyntener.¹—*Grene.* Et nous demandoms
 jugement puis qe le pleintif est icy par gardeyn, et
 par taunt est de recorde qe il est unquore deinz
 age, et il ad conu qe nous sumes seisi a ore de la
 terre, quel ne poet estre autre mes pur la purpartie
 come nous lavioms avant, et auxi ceste accion nest
 pas annexe a la terre mes a la persone, par quei
 demise de la terre ne nous ouste pas de ceste
 accion.²—*Skip.* Il semble qe si; qar de comune

¹ Robert's plea was, according to the record, "non cognoscendo quod
 "manerium prædictum tenetur de
 "Archiepiscopo et aliis dominis
 "prædictis per servitia prædicta,
 "dicit quod usagia sunt in Comitatu
 "prædicto quod heredes tenemen-
 "torum quæ sunt de tenura de
 "Gavelkynde, cum ad ætatem quin-
 "decim annorum pervenerint,
 "vendere possunt et alienare tene-
 "menta sua in perpetuum duratura,
 "et dicit quod prædictus Petrus qui
 "modo queritur, postquam ad
 "ætatem quindecim annorum per-
 "venerat, alienavit tenementa
 "prædicta quæ sunt parcella
 "manerii prædicti et ad partem
 "suam assignata, cuidam Willelmo
 "Eyot, et ab eodem Willelmo
 "statum de eisdem tenementis

"recepit sibi et cuidam Aliciæ
 "uxori suæ, et sic dicit quod ipse
 "modo tenet tenementa prædicta
 "conjunctim cum ipsa Alicia uxore
 "sua, per perquisitionem, &c., et
 "petit judicium si idem Petrus
 "modo ut heres, &c., actionem
 "conventionis prædictæ habere
 "debeat, &c."

² Peter's replication was, accord-
 ing to the record, "non cognos-
 "cendo usagia Kantie, &c., scilicet
 "quod heredes Gavelkynde ad
 "ætatem suam quindecim annorum
 "alienare possunt, &c., nec aliquam
 "alienationem de tenementis præ-
 "dictis unde, &c., fore factam, dicit
 "quod ex quo prædictus Robertus
 "non dedit prædictum scriptum
 "ad quod ipsemet fuit pars esse
 "factum suum, nec conventionem

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A.D. 1346. to the ancestor and his heirs is given to the eldest son, and cannot be maintained for the younger son except with regard to the purparty, and the seisin of this land to which the covenant extends; therefore, if the possession that you have as heir be changed, this action cannot be maintained for you.—WILLOUGHBY. If, when he was under age, he had released the covenant to you, that would not bar him; no more will the conveyance of the land and the taking back of an estate during his non-age deprive him of this action; and moreover this covenant is binding rather on the person than on the tenancy; therefore since you have confessed that he is tenant, and his wife cannot maintain this action with him, it seems that it is maintainable for him.—And they were adjourned.

Covenant § R.¹ brought a writ of Covenant against J.¹ on the ground that J. did not keep the covenant made between the said J. and W.¹ the father of R.,¹ one of whose heirs R. is, to acquit and defend W., himself, and the heirs of W. with regard to the chief lords, in respect of the services of the manor of B.¹ And he counted that on partition made between J. and W., because the inheritance is by custom partible between males, an agreement was made, and that by specialty, of which *profert* was made, to the above effect. And he showed how that manor, with the exception of a certain exception, was allotted to W. And he counted that the services were in arrear, and the defendant had not paid the chief lord, &c., and how by partition this manor was allotted to the plaintiff, &c.—*Moubray*. First he has counted that the defendant tortiously fails to keep the covenant made between J. and W. that W. should acquit the heirs of J., and then he has declared

¹ As to the names, see p. 347, note 2, and p. 349, note 1.

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dreit ceste accion de covenant faite al auncestre et ses heirs est done al fitz eisne, et pur le puisne ne poet estre meintenu mes pur la purpartie, et la seisine de ceste terre a quei le covenant sistent; par quei, si cele possessioun qe vous avetz come heir soit chaunge, ceste¹ accion ne poet estre meyntenu pur vous.—**WILBY.** Sil deinz age vous ust relesse le covenant, ceo ne luy forclorra pas; nent plus la demyse de la terre ne la reprise duraunt son noun age ne luy toudra pas ceste accion; et auxi cele covenant relie plus a la persone qe al tenance; par quei puis qe vous avez conu qil est tenant, et sa femme ove luy ne poet meyntener ceste accion, par quei il semble qil est meyntenable pur luy.—Et sont ajournez, &c.²

§ R.³ porta brief de Covenant vers J. de ceo qil ne luy tient covenant fait entre le dit J. et W. pere R. qun des heirs R. est, dacquiter et defendre vers les chiefs seignours luy mesme et ses heirs⁴ des services del maner de B., countant qe, sur purpartie fet entre J. et W., pur ceo qe leritage par usage est departable entre madles, acorde se prist, et ceo par especialte, quel fuit moustre, *ut supra*. Et moustra coment cel maner, forpris certeine forprise, fuit allote a W. Et counta coment les services furent arere, et il navoit pas paye au chief seignur, &c., et coment par⁵ purpartie cel maner⁶ allote al pleintif, &c.—*Moubray*. Primes il ad counte qatort ne luy tient pas covenant fait entre J. et W., de ceo qe W. acquitereit les heirs

“prædictam, neque dicit quod ipse
“prædictum Petrum de servitiis
“prædictis acquiescit, nec potest
“dedicere ipsum Petrum adhuc esse
“infra statem, cujus non ætas per
“recordum hic in Curia probatur
“pro eo quod custodem fecit in
“placito prædicto versus ipsum
“Robertum, unde petit judicium et
“damna sibi adjudicari, &c.”

¹ MSS. of Y.B., par ceste.

² There were several adjournments, but nothing further appears on the roll.

³ This report of the case is from L., and C.

⁴ C., les heirs H., instead of ses heirs.

⁵ L., cel.

⁶ The words cel maner are omitted from L.

Covenant.

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A.D. 1346 the covenant to be that it was covenanted that J. should acquit W. and his heirs, and so that is not pursuant.—*Grene*. J. cannot now acquit any others than the heirs of W., because W. is dead, and the writ is, and ought to be, to the effect that he is to acquit those who can now be acquitted; and afterwards it is shown in the count in what words the covenant was made; therefore it is right.—And afterwards *Moubray* was put to answer over.—*Moubray*. He has not shown that he was distrained by the chief lord, by which he would suffer damage.—This exception was not allowed, which was extraordinary.—*Moubray*. We tell you that, by the custom of gavelkind, after an infant has passed the age of fifteen years, he can aliene land as a man of full age, and we tell you that the plaintiff aliened, after he was of the age of fifteen years, the same manor to one T.,¹ to hold to T. and his heirs, and took back an estate in fee tail to himself and his wife, of which estate they are seised; and we demand judgment whether he can, as heir, make use of this action.—*Grene*. And you see plainly how the plaintiff appears by guardian, and is under age, and the defendant does not deny the deed of his ancestor nor that he has failed to perform the services; and we pray our damages.—*Skipwith*. If he demanded alone as heir, he would never be answered without the co-heirs, for otherwise whosoever might be the eldest son would have this action; but now, because the manor is allotted to him, according to a custom, as to one of the heirs of his father, that is the reason why he will have the action; that, however, we have destroyed by our plea that he cannot claim as heir because he holds by purchase jointly with his wife.—*WILLOUGHBY*. His wife cannot make use of this action, and you have confessed that he is seised

¹ As to the name, see p. 355, note 1.

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J., et puis desclarra le covenant qil acovenit qe J. A.D. 1346. acquiterait W. et ses heirs, issint nient pursuaunt.—

Grene. J. ne poet ore acquiter autres qe les heirs W., qar W. est mort, et cel est le brief, et deit estre dacquiter ceux qe pount estre a ore acquites; et apres est il moustre en le count en queles paroles le covenant se fit; par qai il est bien.—Et puis fuit mys outre.—*Moubray.* Il nad pas moustre qil soit destreint par chief seignur, par qai il serreit endamage.—*Non allocatur, quod mirum fuit.*—*Moubray.*

Nous vous dioms qe, par usage de Gavilkynd, apres ceo qe lenfant soit¹ passe lage de xv. aunz, il poet alier come homme de plein age, et vous dioms qe le pleintif aliena, apres ceo qil fuit del age de xv. aunz, mesme le maner a un T., a luy et a ses heirs, et reprist estat a luy et a sa femme de fee taille, de quel estat ils sount seisi; et demandoms jugement si come heire ceste accion purra user.—

Grene. Et vous veietz bien coment le pleintif est par gardein, et est deinz age, et il ne dedit pas le fait soun auncestre, ne qil nad pas fait les services; et prioms nos damages.—*Skip.* Sil demanda soulement com heire, il ne serra jammes respondu saunz les coheirs, ou autrement qi qe fuit eigne fitz avereit cele accion; mes ore, pur ceo qe, par usage, le maner est alote a luy come a un des heirs soun pere, cest la cause pur qai il avera laccion; donques avoms destruit cella par nostre plee qil ne poet com heire clamer pur ceo qe par purchace ils tenent joint ove sa femme.—*WILBY.* Sa femme ne poet user accion, et vous avietz conu qil est seisi del

¹ L., fuit.

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A.D. 1346. of the manor, and is one of the heirs, and have confessed the deed of your ancestor by which you are bound. What reason then remains why you should not be charged, &c. ? — And they were adjourned.

Suit to a mill. (53.) § An Abbot¹ sued a writ of suit to a mill.¹ The defendant after appearance made default. The Grand Distress was awarded in lieu of the *Petit Cape*. And now the defendant made default a second time. And judgment was given that the Abbot should recover, but that execution should be stayed until enquiry had been made as to collusion.

Quod permittat. § The Prior of Haverholme heretofore brought a *Quod permittat* in respect of suit to a mill on a title by prescription, which title was traversed. And afterwards, on another day, the defendant made default, and he was now distrained to hear his judgment, and did not appear. Therefore judgment was given that he should recover the suit and his damages. And there issued a writ to the Sheriff to cause a jury to come to tax the damages, and also to enquire as to collusion.

Fine. (54.) § A writ of Dower was brought by a man and his wife against a man and his wife, and the demand was made for a third part of a manor. And upon this a fine was admitted to the effect that the husband and his wife who were demandants granted and released whatsoever they could have as of the dower of the wife to the tenants for ever, and for that grant and release the husband and the wife who were tenants granted five marks of rent to the other husband and his wife, to have for the life of the wife, with a clause of distress for the same rent in the third part aforesaid. And, because it cannot be known which parcel in particular will

¹ See the other report of the case below, and note 2, p. 361.

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maner, et un des heirs, et le fait vostre auncestre, A.D. 1346. par quel vous estes lie. Qai¹ remeint donques pur qai vous ne serretz charge, &c.—*Et adjournantur*.

(53.)² § Un Abbe suist brief de sute de molyn. ^{Sute de molyn.} Le defendant apres apparaunce fit defaute. La grand destresse agarde en lieu de petit *Cape*. Et ore il fait autrefoitz defaute. Et fut agarde qe Labbe recoverast, mes qe execucion cessast tanqe enquis fust de la collusion, &c.

§ Le³ Prior de Haverholme autrefoith porta *Quod Quod permittat* de suite de molyn sur title de prescripcion, ^{permittat.} quel title fuit traverse. Et puis a autre jour le defendant fit defaute, et ore est destreint doier soun jugement, et ne vint pas. Par qai fuit agarde qil recoverast la suite, et ses damages. Et comaunde est de faire venir pays pur taxer les damages, et auxint pur enquire de la collusioun.

(54.)⁴ § Un brief de Dower fut porte par un ^{Finis.} homme et sa femme vers un homme et sa femme, ^[Fitz., Fynes, 72.] et la demande fut faite de la terce partie dun maner. Et sur ceo fyn resceur en tiele manere qe le baron et sa femme demandants granterent et releaserent quantqe ils aver purroint come de dower la femme a les tenantz a touz jours, et pur cele graunt et relese le baron et la femme tenantz granterent v. marc de rente al autre baron et sa femme, a aver a la vie la femme, et de destreindre pur mesme la rente en la terce partie avantdite. Et, pur ceo qe homme ne poet savoir quel parcelle en

¹ C., Qar.

² From H., and I., until otherwise stated. The other report below shows that the plaintiff was not an Abbot, but the Prior of Haverholme, and it is probable that this is a continuation of the case Y.B., Mich. 19 Edw. III., No. 28 (pp. 356-359), in which the Prior of

Haverholme brought a *quod permittat villanos facere sectam ad molendinum* against David son of David de Fletwyke, knight.

³ This report of the case is from L., and C.

⁴ From H., and I., until otherwise stated.

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A.D. 1346 be charged with the distress by the description of a third part, he was put to charge the whole manor with the distress. And in that form the fine was admitted as well with regard to the rent as with regard to the land.

Fine § A fine on a writ of Dower, that is to say, by license to agree after the demand had been for a third part of a manor. The husband and his wife granted and released all their claim in the third part, as the wife's dower, to another husband and his wife, and for that release the others granted back to the demandants, for the life of the wife who was demandant, twenty shillings of rent, to be taken from the whole of the manor, at certain terms, with a clause of distress. And the wives were examined, &c.

Quare non admisit. (55.) § The King brought a *Quare non admisit* against the Archbishop of York on the ground that the Archbishop would not admit the King's clerk to the sub-deanery in the church of St. Peter of York; and he showed how he had judgment in *Quare impedit* for himself.—*Richemunde*. We tell you that

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certain serra charge de la destresse par noun de A.D. 1346. terce partie, il fut mis de charger le maner enter de la destresse. *Et ita recipitur* auxi bien de rente come de la terre, &c.

§ *Finis*¹ sur brief de Dowere, saver, par conge *Finis*. dacorder apres la demande fait de la terce partie du maner. Le baroun et sa femme granterunt et² releesserunt tut lour cleyme en la terce partie, come de dowere la femme, a au autre homme et sa femme, et pur cel relees les autres regraunterent³ a les demandantz, pur la vie la femme demandante, xxs. de rente a prendre de tut le maner, as certeinz termes, ov clause de destresse. Et les femmes examinetz, &c.

(55.)⁴ § Le Roi porta *Quare non admisit* vers Lercevesqe Deverwyke pur quei il ne voleit resceivere son clerk al soutz Deane de B.; et moustra coment il avoit jugement pur luy, &c.⁵—*Richem*. Nous vous

Quare non admisit.
[Fitz.,
Triall,
67.]

¹ This report of the case is from L., and C.

² The words granterunt et are omitted from L.

³ L., granterent.

⁴ From H., and I., until otherwise stated, but corrected by the record, *Placita de Banco*, Easter, 20 Edw. III., R^o 292. It there appears that the action was brought by the King against William, Archbishop of York, in respect of a presentation "ad subdecanatum in ecclesia beati Petri Eboraci."

⁵ According to the record, the declaration was "quod, cum idem dominus Rex alias in Curia hic . . . tulit quoddam breve de Quare impedit versus præfatum Archiepiscopum de subdecanatu prædicto, super quo brevi idem Archiepiscopus placitavit cum domino Rege, et posuit se in

"juratam patriæ, et, continuato
"inde processu quousque idem
"dominus Rex, per juratam præ-
"dictam coram Willelmo Basset
"uno justiciariorum ejusdem
"domini Regis ad placita coram
"ipso Rege tenenda assignatorum
" apud Eboracum
"captam, præsentationem suam ad
"subdecanatum prædictum per
"considerationem Curie Regis
"recuperaverit, per quod idem
"Rex mandavit præfato Archiepis-
"copo, per breve suum de judicio,
"quod, non obstante reclamazione
"ejusdem Archiepiscopi, ad præ-
"sentationem Regis ad subdecan-
"atum prædictum idoneam per-
"sonam, videlicet, Willelmum de
"Wetewange, clericum per ipsum
"Regem ad eundem præsentatum,
"admitteret, quod quidem breve
"liberatum fuit eidem Archi-

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A.D. 1346. there are two churches appropriated to the sub-deanery, and that the sub-dean is governor of the minor canons and choristers in the absence of the dean, and so this is a benefice with a cure. And we tell you that the person whom the King presented to us was a layman, and was unacquainted with letters; and we do not understand that by reason of the refusal to admit him contempt can be assigned in our person; and, if the King were pleased to present another person who was fit, we should be ready to admit him.—*Grene*. As to that, we tell you that the presentee is a clerk, and not a layman; ready, &c.; and we pray that you cause him to come before you to be examined whether it be so or not.—*Richemunde*. And we pray that you send to the Metropolitan a precept to certify you as to this matter.—*HILLARY*. Neither the one nor the other; but we shall enquire by a jury, for the whole dispute now falls into the question whether the presentee was lay or clerk at the time of the refusal to admit him, and not at the present time, since it is possible that the Archbishop may be excused; for it is possible that the presentee was at that time a layman, and that he is now a clerk; and,

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dioms qe deux eglises sount appropries al soutz A.D. 1346.
Deane, et qil est governour de petitz Chanouns et
queristrers en absence del Deane, issi est cel
benefice curable. Et vous dioms qe celui qe le
Roi nous presenta fut lays, et ne savoit pas de
letterure; et nentendoms pas par le refuser de luy
il puisse contempt en nous assigner; et si plest al
Roi de presenter autre persone convenable, prest a
resceivere le.¹—*Grene*. A ceo vous dioms nous qil
est clerk, et nent lays; prest, &c.²; et prioms qe
vous luy facez venir devant vous destre examine le
quel il soit issi ou noun.—*Richem*. Et nous prioms
qe vous maunde al Metropolitan de vous certifier
de cele.—*HILL*. *Neque sic, neque sic*; mes nous
lenquerroms par pays, qar tut le debat chiet a ore
le quel al temps del refuser il fut lays ou clerk,
et ne mye a temps qore est, la ou Lercevesqe purra
estre excuse; qar il est possible qe adonques il fut
lays, et a ore qe il soit clerk; et, si nous luy

"episcopo apud Cawod ex parte
"domini Regis
"idem Archiepiscopus præfatum
"Willelmum ad subdecanatum
"prædictum admittere recusavit."

¹ The plea was, according to the
record, "quod subdecanatus præ-
"dictus est quoddam beneficium
"curatum, ad quod beneficium
"diversæ ecclesiæ curatæ sunt
"spectantes, et subdecanus qui pro
"tempore fuerit debet regulare
"parvos canonicos, vicarios, et
"choristarios in ecclesia prædicta,
"ac capitulum ibidem, tempore quo
"Decanus ejusdem ecclesiæ absens
"fuerit, Et dicit quod, ubi dominus
"Rex asserit ipsum præsentasse
"eidem Archiepiscopo idoneam
"personam ad subdiaconatum
"prædictum, videlicet, præfatum
"Willelmum de Wetewange, cleri-
"cum, &c., idem Willelmus

"inhabilis est ad tale beneficium
"obtinendum eo quod illiteratus
"est. Et hoc paratus est verificare.
"Et dicit quod si dominus Rex
"idoneam personam ei præ-
"sentasset, &c., ipse Archiepis-
"copus personam idoneam ad
"subdiaconatum illum admisisset
"&c., unde dicit quod ipse non
"intendit quod dominus Rex
"injuriam seu contemptum in
"personam ipsius Archiepiscopi
"assignare possit, &c."

² According to the record, the
replication was "quod prædictus
"Willelmus, quem dominus Rex
"præfato Archiepiscopo præsen-
"tavit ad subdecanatum prædic-
"tum, &c., habilis fuit, et est idonea
"persona, et sufficienter literatus.
"Et hoc paratus est verificare pro
"domino Rege per patriam."

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A.D. 1346. if we examine him, the examination will have reference only to the present time, whereas the Archbishop may possibly be excused for his refusal by reason of the disability then in the presentee's person.—Therefore the issue was to be tried by a jury, and a writ was sent to the Sheriff to cause a jury to come.—And on the morrow WILLLOUGHBY said that the question whether the presentee was clerk or layman did not fall within the knowledge of the country, and (said he) we must send to the Dean and Chapter to certify us as to the fact.—*Grene*. The question whether he was then literate or not falls well enough within the knowledge of the country, because it does not lie in examination; for, if he be dead, the King's action still remains for the contempt done to the King, and yet he will never be examined; therefore it is more in accordance with reason, if you desire that he be examined, that you cause him to come before you to be examined on behalf of the King than that you be certified with regard to the matter by those who are subject to the Archbishop.—*HILLARY*. If the Archbishop brings a writ against me on the seisin of his ancestor, and I say that he is a bastard, will not a precept be sent to himself to certify us, since he has no Metropolitan as a Bishop has? And so also it seems in this case.—*Thorpe*. The cases are not alike, because in that case, when he demands on the seisin of his ancestor, he does not demand as in respect of anything which is of the right of his Archbishopric, as he represents divers estates in it; but in this case the suit is made against him as Ordinary and officer of the King, and therefore since he represents only one degree in this case, one will not send to him to certify with regard to that degree which he represents in the suit; nor consequently will one send to the Dean and Chapter, who are his

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examinoms, ceo referra mes a temps qore est, la A.D. 1346. ou Lercevesqe purra estre excuse del refuser par la nounablete adonques en luy.—Par quei lissue fut trie par pays, et brief maunde al Vicounte, &c.—Et lendemeyn WILBY. dit qil ne chiet pas en conissaunce de pays le quel il fut clerk ou lays, il covient qe nous maundoms al Dean et Chapitre del nous certifier.—*Grene.* Il chiet assetz bien en conissaunce de pays le quel il fut lettre adonques ou nient, qar en examenement ne gist il pas ; qar, sil soit mort, unqore demoert laccion le Roi pur le contempt a luy fait, et jammes ne serra il examine ; par quei il est plus de resoun qe si vous voillezt qil soit examine qe vous luy facetz vener devant vous destre examine pur le Roi qe destre certifie de cele de ceux qe sount sugettez al Ercevesqe.—*HILL.* Si Lercevesqe porte un brief vers moy de la seisine son auncestre, et jeo die qil est bastarde, ne serra il maunde a luy mesmes de nous certifier, puis qil nad pas mestropolitan come Evesqe ad. Et auxi semble il en ceo cas.—*Thorpe.* Il nest pas semblable, qar en ceo cas qil demande de la seisine son auncestre il demande mye come chose qest del dreit de sa Ercevesche, issi qil represente divers estatiz en cele ; mes en ceo cas la sute est faite vers luy come Ordiner et ministre le Roi, par quei puis qil represente mes un degree en ceo cas en cele degree qil represente en la sute homme ne maundera pas a li de certifier ; *nec per consequens* al Dean et Chapitre, qe

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A.D. 1346. subordinates.—And the Court desired to consider this.—And they were adjourned.

*Quare non
admisit.* § The King brought a *Quare non admisit* against the Archbishop of York with regard to the sub-deanery in the church of St. Peter of York, and counted that he had refused to admit the King's presentee.—*Richemunde* alleged that the sub-deanery was a benefice to which two churches belonged, and that the sub-dean represented the dean in his absence for the purpose of visitations, and that the person whom the King presented to such a benefice was non-able, and illiterate, and for that reason the Archbishop refused to admit him. And (said *Richemunde*) we demand judgment whether tort can be assigned. And he said that whenever the King would present a person without disability the Archbishop would be ready to admit him.—*Thorpe*. He was a clerk and literate; ready, &c.—And the other side said the contrary.—Afterwards there was discussed by the Court the question to whom the

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sount desoutz lui. — Et sur ceo la Court se voleit ^{A.D. 1346.}
aviser.—*Et adjornantur*,¹ &c.

§ Le² Roi porta *Quare non admisit* vers Lercevesqe ^{*Quare non admisit*}
Deverwyke, &c., a la South Deane en leglise Seint
Piere Deverwyke, et counta qil avoit refuse soun
presente.—*Rich.* alleggea qe la South Deane est
benefice de deux eglises, et represent le Dean³ en
sabsence en visitaciouns, et celuy qe le Roi presenta
est persone noun able, et nient lettre, a tiel benefice,
par qai il luy refusa. Et demandoms jugement si
tort, &c. Et dit qe quele heure qe le Roi voet
presenter persone able prest serreit de luy receiver.
—*Thorpe.* Il fuit clerke et lettre; prest, &c.—*Et*
alii e contra.—Après fuit parle par la COURT a qi

¹ After the replication, the roll continues:—"Et quia non dum visum est Curie utrum predicta verificatio sit trianda per patriam, vel cui sit demandanda ad inquirendum, &c., in premissis, pro eo quod predictus Archiepiscopus versus quem, &c., est Metropolitanus loci predicti, datus est dies," &c.

A large number of other adjournments follow, after the last of which, in Easter Term, 23 Edward III., "venit predictus Archiepiscopus per predictum attornatum suum. Et dominus Rex mandavit hic literas suas patentes in hæc verba:—Edwardus, Dei gratia Rex Angliæ et Franciæ, et dominus Hiberniæ, omnibus ad quos presentes literæ pervenerint salutem. Sciatis quod dedimus et concessimus dilecto clerico nostro Johanni de Pyrie subdecanatum in ecclesia beati Petri Eboraci vacantem, et ad nostram donationem spectantem ratione temporalium Archiepiscopatus

"Eboracensis vacantis et in manu nostra existentis, habendum cum suis juribus et pertinentiis quibuscunque, et omnimodas collationes per nos inde tam Magistro Andreæ de Offord quam aliis quibuscunque factas tenore presentium duximus revocandas. Dated 12 Ap. 23 Edw. III.)

"Et super hoc predictus Johannes de Pyrie præsens hic in Curia petit breve pro domino Rege predicto Archiepiscopo de executione facienda, &c. Et ei conceditur, &c. Et quia predictus Archiepiscopus nondum admisit, &c., ideo datus est dies tam predicto Johanni qui sequitur, &c., quam predicto Archiepiscopo per attornatum suum hic in Octabis Sancti Michaelis in statu quo nunc, &c."

Then follow many more adjournments, but no result is shown.

² This report of the case is from L., and C.

³ C., lestat le Dean.

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A.D. 1346. precept should be sent in this case, since the matter should be tried by Court Christian.—And the Court was of opinion, because the Metropolitan was himself a party, that it should be sent to the Dean and Chapter of York.—*Thorpe*. We pray that our averment be accepted, for the question of ability ought to be tried by a jury, having regard to the time of the presentation, for, even though the presentee were now dead, the Ordinary would still be convicted of the contempt for not admitting him, and it is not right that the Dean and Chapter, who are subject to the Archbishop, should certify any more than himself.—*Grene, ad idem*. A matter which can be tried by witnesses falls within the knowledge of the country, but this question of ability, even though one sent to the Ordinary, would be by him tried by witnesses; consequently, when the Ordinary is a party, the matter will be tried by a jury.—*WILLOUGHBY*. Lay people will not know, nor can it be understood that they will know, whether he was a clerk or not.—*HILLARY* to *Thorpe*. Suppose the Archbishop were to demand land as his inheritance, and bastardy were alleged against him, to whom would the Court send to try the matter? I think to the Archbishop himself, and yet he would himself be a party; so also in this matter.—*Thorpe*. Sir, in the case which you put the Archbishop would not be using the action as Ordinary, but as another person, and because he represents two estates, one as Ordinary, the other as another person, it is possible that the Court would send to himself in order to be certified, but in this case the suit is made against him as Ordinary, and therefore it is otherwise.—They were adjourned, &c.

Avowry. (56.) § One avowed the taking of pigs in Polehurst, and the taking was supposed as in his several *damage feasant*.—*Grene*. We tell you that Polehurst is a common way for the people of the whole of

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serreit maunde en le cas, desicomme ceste chose est ^{A.D. 1346.} a trier par Court Christiene.—Et Courr fuit del avys, pur ceo qe le Metropolitone est mesme partie, qe serreit maunde au Dean et al Chapitre Deverwyke.—*Thorpe*. Nous prioms averement, qar ceste ablete covient estre enquis, eaunt regarde al temps del presentement, qar, tut fuit il ore mort, unqore pur le contempte qe Lordeigner fit pur le nient resceiver serra il atteint del contempte, et nest pas resoun qe le Dean et Chapitre, qe sount suggifs al Ercevesqe, certifient plus qil mesme.—*Grene, ad idem*. Chose qe purra estre trie par proves chiet¹ en conissaunce du pays, mes ceste ablete, tut maundast homme, serreit trie par Ordeigner par proves; *per consequens*, quant Ordeigner est partie, il serra trie par enqueste.—*WILBY*. Layes² gentz ne saverount pas,³ ne ne poet estre entendu qils saverount, sil soit clerc ou noun.—*HILL. a Thorpe*. Jeo pose qe Lercevesqe demandast terre comme soun heritage, et fuit allegge countre luy bastardie, a qi maundreit Court de trier la chose? Jeo crey al Ercevesqe mesme, et si serreit il partie mesme; auxint de cest part.—*Thorpe*. Sire, el cas qe vous mettetz ils userent pas accion come Ordeigner,⁴ mes come autre persone, et pur ceo qil represente deux estates, un come Ordeigner, autre come autre persone, il poet estre qe Court maundreit a luy mesme destre ascerte,⁵ mes si est suite fait vers luy comme Ordeigner, par qai il est autre.—*Adjournantur, &c.*

(56.)⁶ § Un avowa la prise des porkes en Polehurst, *Avowere* ou la prise fut suppose come en son several damage fesaunt.—*Grene*. Nous vous dioms qe Polehurst est un comune chimyn as gentz de tote le counte

¹ L., chete.² C., *Lays*.³ C., *jammes*.⁴ L., Ordeigner mesme.⁵ L., *asserte*.⁶ From H., and I.

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A.D. 1346. the county to drive their beasts to the forest of A., where they are agisted, and to drive them back again, and we demand judgment whether, in that place, which is thus a common way for the whole country, you can for that cause maintain the taking, since we drove our beasts to the forest, where they were agisted.—*Huse*. Whereas you have said that Polehurst is a common way for the driving of beasts, we tell you that Polehurst is a great piece of land, and we tell you that the place in which we have supposed the taking to have been effected is our several; ready, &c.—*Grene*. Then you do not deny that Polehurst is a common way, and therefore you shall not be admitted to aver that it is your several.—And afterwards it was definitely asked of *Grene* by the Court whether he would accept the averment.—And he did not dare to refuse it. Therefore he said that Polehurst was a common way *absque hoc* that it was the avowant's several.—And upon that they were at issue.

Dower. (57.) § In Dower the tenant vouched, and bound the vouchee to warranty on the ground that one J. had leased the land to him for term of life, rendering to J. certain rent, and had bound himself and his heirs to the warranty (and he made *profert* of a deed to that effect), and that this J. had granted the reversion to the person who was now vouched, and the tenant had attorned to him, and the vouchee was seised of the rent reserved, and for that cause the tenant would bind him to the warranty.—*Skipwith*. Sir, you see plainly how he binds us only by reason of the reversion, and he has himself shown that his warranty still depends upon his lessor by force of his original purchase; therefore it does not fall to deraign warranty against us who are purchaser of the reversion; therefore we demand judgment whether he can bind us.—WILLOUGHBY. To

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de chacer et rechacer lour bestes en la foreste de A.D. 1346. A., ou ils furent agistes, et demandoms jugement si en cel lieu qest issi comune chymyn a tote le pays, puis qe nous chaceames noz bestes a la foreste ou ils furent agistes [si vous puissetz par cele cause la prise maintenir.—*Huse*. La ou vous avetz dit qe Polehurst est un comune chymyn de chacer bestes,]¹ nous vous dioms qe Polehurst est un grande place de terre, et vous dioms qe le lieu ou nous avoms suppose la prise estre faite est nostre several; prest, &c.—*Grene*. Donques vous ne dedites pas qe Polehurst est comune chymyn, par quei daverer qe cest vostre several ne serretz resceu.—Et puis fut appose par la Court de *Grene* sil voleit laverement.—Et il nosa pas refuser. Par quei dit qe ceo fut comune chymyn saunz ceo qil fut soun several.—Et sur ceo furent a issue.

(57.)² § En Dowere le tenant voucha, et lia le Dower
voucha a la garrantie par taunt qun J. li lessa la [Fitz.,
terre a terme de vie, rendaut a lui certeine rente, *Countersple*
et obligea lui et ses heirs a la garrantie (et myst *de Gar-*
avant cel fait) le quel J. granta la reversion a celi *rante,*
qest ore voucha, et il attourna, et le voucha seisi *7.]*
de la rente reserve, et par cele cause il li voleit
lier.—*Skip*. Sire, vous veietz bien coment il nous
lie forsque par cause de reversion, et il mesme ad
moustre qe sa garrantie depent unquore vers son
lesseour par force de soun primer purchace; par
quei vers nous qe sumes purchaceour de reversion
ne chiet pas a derener garrantie; par quei nous
demandoms jugement si, &c.—WILBY. Clametz

¹ The words between brackets are
omitted from I.

² From H., and I., until other-
wise stated.

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A.D. 1346 begin with, do you claim anything in the reversion or not?—*Skipwith*. It seems to us that we are not now in the same case as if the person who vouched us were tenant in dower, to whom it does not belong to have warranty by specialty but only by reason of a reversion, in which case it would be necessary for us either to disclaim the reversion or to warrant; but in this case he himself shows that he still has a claim to warranty against the person who leased to him, and therefore we are not to be bound to warranty by reason of the reversion.—*WILLOUGHBY*. Then you confess that the reversion belongs to you; and if you abide judgment on that point, and judgment passes against you, you will lose the land; and therefore consider whether you will say anything else.—*Skipwith*. At all hazards we demand judgment whether he can bind us for such a cause. And, Sir, we have seen that, in case a vouchee counterpleads warranty by reason of a matter which falls under the head of law, he will have no other judgment but that he must warrant, but, nevertheless, Sir, we will accept that which you adjudge.—*WILLOUGHBY*. Rest assured that, if judgment passes against you, the land will be lost; and further, because if a lease had been made to you for term of life, and a rent reserved without deed, you would have a claim to warranty against your lessor, so, for the same reason, if he grants the reversion to you, by reason of which he attorns, you have as much as your grantor had, and consequently the same law charges you to do as he would have done. And, inasmuch as you have counterpleaded the warranty, in which case by statute,¹ if judgment passes against you, you lose the land, the Court therefore adjudges that the woman do recover her dower against the tenant, and he over to the value against you.—And yet the parties did not take any delay by adjournment.

¹ 13 Edw. I. (Westm., 2), c. 6.

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rien en la reversion ou nent a comencement?—A.D. 1346.

Skip. Il nous semble que nous ne sumes pas a ore come celi que nous vouche fut tenante en dowere, a qi nattient pas a aver garrantie par especialte mes soulement par cause de reversion, en quel cas il nous covendra a desclamer en la reversion, ou garrantir; mes en ceo cas il mesme moustre qil ad garrantie unquore vers celui que lessa, et par taunt nous nent liable par cause de reversion.—*WILBY.* Donques conissetz vous que la reversion est a vous; et si vous demuretz sur cel point, si jugement passe countre vous, vous perdretz terre; et pur ceo avisetz vous si vous voilletz autre chose dire.—*Skip.* A touz perils nous demandons jugement si par tiele cause il nous puisse lier. Et, Sire, nous avoms vewe en cas que le vouche countreplede la garrantie par chose que chiet en lei qil navera autre jugement mes qil garrante, mes nequident, Sire, nous prendrons ceo que vous agardetz.—*WILBY.* Soietz seure que si le jugement passe countre vous que terre serra perdu; et puis, pur ceo que si le lees se fist a vous a terme de vie, et rente reserve saunz fait, vous averetz garrantie vers vostre lessour, et par mesme la reson sil graunt la reversion a vous par quel il est attourne, vous avetz quanque vostre grauntour avoit, et *per consequens* mesme la lei vous charge de faire. Et, de ceo que vous avetz countreplede la garrantie, en quel cas par estatut, si jugement passe countre vous, vous perdrez terre, par quei agarde la COURT que la femme recovere soun dowere vers le tenant, et il a la value vers vous.—Et unquore les parties pristrent pas delaie par ajournement.

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A.D. 1346. § *Skipwith*. What have you to bind us to
Dower. warranty?—*Gaynesford*. A. leased to us for term
of our life, by this deed with warranty, to hold
of him by certain services, and this A. has
granted the reversion and the services to you,
and in virtue of that grant we have attorned
to you, and you are seised of the services.—
Skipwith. You see plainly how he shows that
another person, by whose lease he claims to
hold, is bound to warrant, and against us he
shows nothing; therefore we demand judgment.
—*SHARSHULLE*. Do you claim anything in this
reversion or not?—And *Skipwith* was by judg-
ment put to answer this, and claimed the
reversion, and demanded judgment, inasmuch as
by the deed of lease, of which he made *profert*,
it was proved that the lessor was bound to
warrant the tenant, whether the tenant could
deraign warranty against him.—*WILLOUGHBY*. And,
since you have not denied that the reversion
belongs to you, but have confessed that you
are seised of the reversion and of the rent,
and your lessor, even without a deed, would
by reason of the reversion, if he had not
granted it away, have been bound to warrant
him, so for the same reason are you. And
the statute¹ purports also that, as the tenant
would lose his land if the vouchee could
escape from the warranty, so also the warrant
will lose his land if it be found against
him that he ought to warrant; therefore the
COURT doth adjudge that the demandant do
recover against the tenant, and the tenant over
to the value against you, and that you be in
mercy.

¹ 13 Edw. I. (Westm. 2), c. 6.

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§ *Skip*.¹ Qai avietz de nous lier a la garrauntie? A.D. 1346
 —*Gayn*. A. nous lessa a terme de nostre vie par ^{Dowere.}
 ceo fait ov garrauntie, a tener de luy par certeinz
 services, [quel A. ad graunte la reversion a vous, et
 les services],² par quel grant nous sumes attourne a
 vous, et vous seisi de les services.—*Skip*. Vous veietz
 bien coment il moustre qautre luy est tenutz de
 garrauntir, de qi lees il cleyme tener, et devers nous
 ne moustre rienz, par qai, &c., jugement.—*Schr*.
 Clametz vous rienz en ceste reversion ou noun?—
 Et a ceo fut *Skip*. par agarde mys a respoundre, et
 clama en la reversion, et demanda jugement, desicome
 par le fait du lees, qil ad mys avant, est prove que
 le lessour luy est tenutz de garrauntir, si devers ly
 la garrauntie puisse derrener.—*Wilby*. Et de puis
 que vous navetz³ pas dedit que la reversion est vostre,
 einz avetz conu que vous estes seisi de la reversion
 et la rente, et vostre lessour, tut saunz fait, par
 cause de reversion, sil ne la ust graunte, serra
 tenutz a garrauntir a luy, et par mesme la resoun
 vous. Et lestatut voet auxi, comme le tenant
 perdrait terre si le vouche purreit estourtre de la
 garrauntie, auxint perdra le garraunt sil soit atteint
 qil deive garrauntir; par qai agarde la Court que la
 demandante recovere vers le tenant, et il a la value
 devers vous, et vous en la merci.

¹ This report of the case is from
 L., and C.

² The words between brackets
 are omitted from L.

³ C., navietz.

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A.D. 1346. (58.) § The Master¹ of the Hospital of R.¹ brought
 Trespass : a writ of Trespass against one J.,¹ who appeared
 Excom- upon a *Capias*, and said that the plaintiff ought not
 munica- to be answered because he was excommunicated, and
 tion. made *profert* of a letter of the Dean of St. Martin, which testified the fact. And he said that the Dean was exempt from all jurisdiction of the Ordinary, and himself had the jurisdiction of an Ordinary to redress all matters appertaining to the office.—*R. Thorpe*. You see plainly how the letter of which he makes *profert* is not under any authentic seal which this Court ought to trust; therefore we demand judgment, &c.—*Grene*. We have shown that the Dean has the jurisdiction of an Ordinary, and consequently to pronounce excommunication, and it is no part of his duty to certify it to the Bishop, because the Bishop does not in any way meddle with him, and therefore you ought to admit the letter of excommunication from him.—*HILLARY*. If bastardy were to be tried, would this Court send to the Dean to certify it? Certainly not, but to the Bishop; therefore we shall not admit any other certificate than one from the person to whom this Court would send; therefore answer.—*Skipwith*. We tell you that this same Hospital of which the plaintiff has alleged himself to be Master has its Master made by collation of the Dean of St. Martin, which Dean gave us the governance of the Hospital, and that by these deeds (and *Skipwith* made *profert* of them), and the present plaintiff has claimed to be Master by election of the

¹ For the names, see p. 379, note 1

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(58.)¹ § Le Mestre del Hospital² de R. porta brief A.D. 1346. de Trespas vers un J., le quel vient par le *Capias*, et dit qe le pleintif ne serreit respondu pur ceo qil fut escomenge, et myst avant la lettre le Dean de Saint Martyn qe le tesmoigna. Et dit qe le Dean fust exempt de chesque jurisdiction [Ordiner, et avoit jurisdiction Ordiner mesme a redresser totes choses qe y appent].⁴—*R. Thorpe*. Vous veietz bien coment la lettre qil met avant nest pas soutz seal autentik a quei ceste Court dust doner foi; par quei nous demandoms jugement, &c.—*Grene*. Nous avoms moustre coment le Dean ad jurisdiction Ordiner, et *per consequens* a faire escomengement, et a luy nattient il pas del certifier al Evesqe, puis qe Levesqe ne se melle rienz de luy, par quei de li le devetz resceivere.—*HILL*. Si bastardie fut a trier, maundra ceste Court al Dean del certifier? Nay certes, mes al Evesqe; par quei autre certificacion qe de celi a qi ceste Court maundra⁵ ne resceivroms pas; par quei responez.—*Skip*. Nous vous dioms qe mesme lospital de quei le pleintif se fist se fait Mestre et de la collacion le Dean de Seynt Martyn, le quel Dean nous dona le gouvernaille del Hospital,⁶ et par cestes faites—et les myst avant—et celi quore se pleint clama destre Mestre par eleccion⁶ de noz

Trans: Escomengement.³
[Fitz.,
Mainprise,
27.]

¹ From H., and I., until otherwise stated, but corrected by the record, *Placita de Banco*, Easter, 20 Edw. III., R^o 327. It there appears that the action was brought by Simon, Master of the Hospital of St. Leonard of Newport, against William de Midelton, clerk. The defendant was attached to answer, "quare ipse, simul cum Hugone Hanmill vicario ecclesie de Newport, et Johanne Hanmill clerico, vi et armis clausum et domos Hospitalis prædicti, tempore Willelmi de Sandone nuper

"Magistri Hospitalis prædicti, prædecessoris prædicti Simonis, apud Neuport fregit, et bona et catalla Hospitalis prædicti, tempore prædicto, ad valentiam decem librarum ibidem inventa cepit et asportavit."

² Escomengement is from I. alone.

³ I., Ospital.

⁴ The words between brackets are omitted from I.

⁵ H., demaundra.

⁶ I., collacion.

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A.D. 1346. fellow-brethren and of the House, whereas the Mastership is dative by the Dean, and not elective, and so the plaintiff has abated on our possession; and we demand judgment whether against us who are Master, merely because he describes himself as Master, he ought to have an action.—*Thorpe*. We will aver that on the day on which the writ was purchased, and this day, we are Master.—*Grene*. You shall not be admitted to that since we have shown that the Mastership is dative by the Dean, who gave it to us, and we have confessed that you claimed it against us by reason of election, which title cannot make you Master if the fact be as we have said; therefore you shall not be admitted to this general averment.—*Thorpe*. We have nothing to do with the Dean's deeds of which you make profert, nor with the reason which you give for claiming to be Master; but, as to your statement that we are not Master, we are ready to aver that we are Master, and that averment you refuse; judgment.—Therefore *Grene* was formally asked by the Court whether he would accept the averment; and he did not dare to refuse it. Therefore he said that he, and not the plaintiff, was Master, for the reason abovesaid; ready, &c. And he prayed that this reason might be entered.—But he could not have it so.—Therefore, because the defendant appeared in virtue of a *Capias*, *Grene* prayed that he might find mainprise.—*Thorpe*. You ought not to be allowed to find mainprise, because heretofore, in this same plea, you found mainprise, and cancelled it, and therefore on this original writ you ought not to be allowed to

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confreres et de la mesoun, la ou cest datif par le Dean, et noun pas electif, abati sur nostre possession; et demandoms jugement si devers nous qe sumes Mestre, puis qil se nome Mestre, deit il accion aver.¹

—*Thorpe*. Nous voloms averer qe jour de brief purchace, et huy ceo jour, nous sumes Mestre.²—

Grene. A ceo navendrez pas puis qe nous avoms moustre qe cest datif par le Dean, le quel nous dona, et avoms conu qe vous le clamastez sur nous par cause delleccion, quel title ne vous poet faire Mestre sil soit come nous avoms dit; par quei a cel averement general ne serrez resceu.—*Thorpe*. Nous navoms qe faire des faitz del Dean qe vous mettez avant, ne a la cause par quel vous clametz destre Mestre; mes a ceo qe vous dites qe nous ne sumes pas Mestre, prest, &c., qe si, quel averement vous refusez; jugement.—Par quei fut oppose de *Grene* par la Court sil voleit laverement; et il nel osa pas refuser. Par quei il dit qil fut Mestre par la cause susdite, et noun pas le pleintif; prest, &c.—Et pria qe cele cause fust entre.—*Sed non potuit*.—Par quei, pur ceo qil vient par le *Capias*, il pria qil pout trover meinprise.—*Thorpe*. Ceo ne devez trover, qar en mesme cel plee autrefoitz vous trovastes³ meynprise, et debrusastes,⁴ par quei en cest original nel devetz pas autrefoitz trover.—

¹ William's plea was, according to the record, "ubi prædictus " Simon tulit breve istud versus " ipsum Willelmum, ut Magister, " &c., supponendo eundem " Simonem esse Magistrum Hospitalis prædicti, dicit quod ipse " Willelmus est Magister ejusdem " Hospitalis ex collatione Decani " Sancti Martini magni Londoniarum et confirmatione Capituli " ejusdem loci, et fuit die impetrationis brevis sui, unde petit " judicium, &c. Et profert hic

" collationem prædicti Decani, et " confirmationem Capituli, quæ " præmissa testantur, &c."

² Simon's replication was, according to the record, " quod die " impetrationis brevis . . . ipse " Simon fuit Magister Hospitalis " prædicti, et non prædictus " Willelmus sicut idem Willelmus " dicit."

Issue was joined upon this, and the *Venire* awarded.

³ H., trovatez.

⁴ H., debrusatez.

No. 59.

A.D. 1346. find it again.—HILLARY. After a party has once cancelled his mainprise he shall not delay the plaintiff by another before he has pleaded; but, when he has pleaded, he may well be admitted to find mainprise.—Therefore the mainprise was admitted.

Note. § Note that *profert* was made of a letter of the Dean of St. Martin le Grand of London, who is a person exempt, and has the jurisdiction of an Ordinary, in testification of an excommunication. And it was not allowed, because neither the seal nor the testification of any one is admissible or authentic except that of a Bishop.

Formedon. (59.) § A Formedon in the remainder was brought by John Pyne.—As to part of the tenements *Thorpe* said that the person whom the demandant supposed to have given was never seised so that he could make a gift.—*Blaykeston*. That is not an issue without saying that he did not give.—And, because this action is taken entirely on the seisin of the donor, the issue was accepted.—It is otherwise in a Formedon in the descender, because in that it is not necessary to mention the seisin of the donor.—And as to the rest of the tenements, *Thorpe* said:—The demandant ought not to have an action, because one who was his ancestor enfeoffed one J. of the same tenements, by the description of the

No. 59.

HILL. Apres qe partie eit un foitz debruse sa A.D. 1346.
meynprise avant qil eit plede il ne delaiera pas le
pleintif par nul autre; mes, quant il ad plede, il
serra bien resceu. — Par quei la meinprise fut
resceu.¹

§ *Nota*² qe la lettre le Dean de Seint Martyn le *Nota*³
grant de Loundres, qest persone exempte, et ad
jurisdiccion Ordinare, fuit mys avant pur tesmoigner
un escomengement. *Et non allocatur*, pur ceo qe
nully seal ne tesmoignaunce est resceivable ne
autentik forqe Devesqe.⁴

(59.)⁵ § Forme de doun en remeindre par Johan Fourme-
Pyne.—Quant a parcel *Thorpe* dit qe celi qil supposa *doun*.
qe dona ne fut unqes seisi si qil poait doun faire. [*Fitz.*,
—*Blaik*. Ceo nest pas issue saunz dire qil ne dona *Issue*, 52.]
pas.—Et, pur ceo qe ceste accion est pris tut de la
seisine le donour, lissue fut resceu.—*Non sic* en
descender, pur ceo qil ne covient pas de parler de
la seisine le donour.—Et quant al remenant, *Thorpe*
dit qil ne dust accion aver, qar un son auncestre
enfeffa de mesmes les tenementz, par noun del

¹ The roll shows that mainprise was accepted, and the names of the mainperners are given.

After several adjournments there was a verdict, at *Nisi prius*, "quod die impetrationis brevis prædicti . . . prædictus Simon fuit Magister Hospitalis prædicti, et non prædictus Willelmus, sicut idem Willelmus dicit. Quæsitum est a præfatis juratoribus ad quæ damna, &c. Dicunt ad damnum ipsius Simonis quadraginta librarum."

Judgment was then given for Simon to recover his damages, and a *Capias* was awarded against William.

"Postea a die Sancti Michaelis in xv dies anno regni Regis nunc

"vicesimo primo prædictus Willelmus de Midelstone, captus per breve Vicecomitibus Londoniarum directum, et per eosdem Vicecomites hic ductus, committitur Gaolæ de Flete, &c."

There appears to have been subsequently a writ of Error:—"Postea in Crastino Animarum anno regni ejusdem Regis xxjº prædicta recordum et processus mittuntur coram Rege, per breve clausum, per J. de Aultone."

² This note of the first part of the case is from L., and C.

³ The marginal note is omitted from C.

⁴ C., de Evesqe.

⁵ From H., and I.

No. 59.

A.D. 1346 manor of E., and bound himself and his heirs to warrant J. and his heirs and assigns, which J. enfeoffed our father of the same tenements (and *Thorpe* made *profert* of both deeds), and we demand judgment whether contrary to the warranty, &c.—And the demand was in the writ supposed to be in two villis, that is to say, E. and A., and the deed of assignment purported that J. had enfeoffed the tenant's father *de omnibus terris et tenementis* which he had in E. in the Hundred of W.—*Blaykeston*. You see plainly how we demand lands in two villis, and he pleads in bar, as assign, a warranty of tenements in E., and he does not make himself assign of the tenements in the vill of A. in which we demand; therefore, as to the tenements in that vill, that is to say, ten acres of land we pray seisin; and, as to the tenements in the vill of E., we say that they did not pass by the deed.—*Thorpe*. And we demand judgment, since we have said that J. enfeoffed our father of the whole of your demand, which fact we will aver, and therefore we are assign of the whole; and, inasmuch as you have avoided the deed with regard to the other part, the deed is confessed, and you have thereby confessed that this land passed by the deed, since it is not denied; therefore we demand judgment whether you can have an action.—*Blaykeston*. You cannot say that you are assign except in virtue of the deed, and the deed does not make you assign except in one vill, and you have confessed that the tenements are in two villis; and you cannot now say that one is a hamlet of the other because you have pleaded in bar; therefore by no possibility can the whole of our demand be in the one vill since you have not surmised it by your plea in bar.—*Grene*. By your ancestor's first deed the whole of your demand in the two villis passed by the description of the manor

No. 59.

manere de E., un J., et obligea luy et ses heirs de A. D. 1346
 garrantir luy et ses heirs et ses assignes, le quel
 J. enfeffa nostre pere de mesmes les tenementz, et
 myst avant lun fait et lautre, et demandoms
 jugement si encountre la garrantie, &c.—Et la
 demande fut en le brief suppose en ij villes, saver
 E. et A., et le fait de assignement voleit qe J.
 avoit enfeffe son pere *de omnibus terris et tenementis*
 qil avoit en E. en hundred de W.—*Blaik*. Vous
 veietz bien coment nous demandoms terres en ij
 villes, et il plede en barre, come assigne, par une
 garrantie de tenementz en E.,¹ et il ne se fait pas
 assigne des tenementz en la ville de A. ou nous
 demandoms; par quei, quant as tenementz en cele
 ville, saver x. acres de terre, nous prioms seisine;
 et, quant as tenementz en la ville de E., nous
 dioms qil ne passerent pas par le fait.—*Thorpe*.
 Et nous demandoms jugement, puis qe nous avoms
 dit qe de tot² vostre demande J. enfeffa nostre pere,
 quele chose nous voloms averer, et par taunt nous
 sumes assigne de tut; et, par taunt qe vous avetz
 voide le fait del autre parcel, le fait est conu, [par
 quel avetz conu]³ qe cele terre passa par le fait, puis
 qe ceo nest pas dedit; par quei nous demandoms
 jugement si accioun poetz aver.—*Blaik*. Vous ne
 poetz dire qe vous estez assigne, forqe [par le fait, et
 le fait vous fait assigne forqe en]³ lune ville, et vous
 avetz conu qe les tenementz sont en les ij villes;
 et ne poetz dire a ore qe lun est hamele del autre
 par taunt qe vous avetz plede en barre; par quei
 pur nulle possibilite tut nostre demande poet estre
 en lun ville puis qe par vostre plee en barre ne le
 surmeistes pas.—*Grene*. Par le primer fait de vostre
 auncestre tut vostre demaunde en les ij villes passa

¹ The words *de tenementz en E.*
 are omitted from I., and inserted
 by interlineation in H.

² tot is omitted from I.

³ The words between brackets are
 omitted from I.

No. 60.

A D. 1346. of E. in accordance with the name of one of the two villis named in the writ; then the deed of assignment came afterwards, and purported that J. enfeoffed our ancestor *de omnibus terris et tenementis apud E. in hundredo de W.*, which E. must be understood to be the manor under the name of which the whole passed at the beginning, and not the vill. And, moreover, all the tenements in the Hundred of W. might be tenements in ten villis. And since we will aver the fact, and he does not deny it, we demand judgment, &c. — *Blaykeston*. Those words *apud E.* must refer to the vill and not to the manor, since the manor is not previously mentioned in the deed. And, moreover, those words *in hundredo de W.* cannot refer to all the tenements which he had in the Hundred, but must refer to all the tenements which he had in E. which is within the Hundred; therefore, &c.—And at last *Blaykeston* waived that point, and said, as to the whole, that nothing passed by the deed; ready, &c. —And the other side said the contrary.

Account. (60.) § A writ of Account was brought against one J. de B.—*Gaynesford*. You have here J. de B., who tells you that there are two persons named J. de B., that is to say, J. the father and J. the son, and you do not determine in your writ against which of them the writ is brought; judgment of the writ.—*Haveryngton*. We take your records to witness that yesterday we counted, and he defended for one J. de B., who is the father, and who does not now appear; therefore we demand judgment, since he has departed in contempt of the Court, &c.—*Gaynesford*. And we take your records to witness that we never defended except on behalf of the person of whom we now speak; and we demand judgment since you have confessed that there are two of the name, and have not in your writ determined against whom the writ

No. 60

par noun de maner de E. acordaunt al noun dun ^{A.D. 1346.}
 des ij villes nome en le brief; donques vint le fait
 dassignement apres, et dit qe J. ad enfeffe nostre
 auncestre *de omnibus terris et tenementis apud E. in*
hundredo de W., quel E.¹ serra entendu le maner
 par noun² de quel tut passa a comencement, et ne
 mye a la ville. Et auxi touz les tenementz *in*
hundredo de W. pount estre tenementz en x. villes.
 Et puis qe nous le voloms averer, et il nel dedit
 pas, nous demandoms jugement, &c.—*Blaik*. Cel
 paroul *apud E.* referra a la ville et nemye al
 maner, puis qe maner ny est pas nome avant.³ Et
 auxi cele parole *in hundredo de W.* ne poet referrer
 a touz les tenementz qil ad en Lundrede [mes a
 touz les tenementz qil ad en E. qest]⁴ deinz
 Lundred; par quei, &c.—Et al dreyn, *Blaik* weyva
 cel, et dit, quant a tut, qe rienz ne passa par le
 fait; prest, &c.—*Et alii e contra*.

(60.)⁵ § Brief Dacompt porte vers un J. de B.—^{Acompt.}
Gayn. Vous avetz cy J. de B., qe vous dit qils y ^{[Fitz.,}
 sont ij J. de B., saver, J. le pere et J. le fitz,⁶ et ^{Briefe,}
 vous ne determinez par en vostre brief vers qi deux
 le brief est porte; jugement de brief.—*Hav*. Nous
 pernomms voz recordz qe here nous countames, et il
 defendi pur un J. de B., qe fut le pere, le quel ne
 vient pas a ore; par quei nous demandoms jugement,
 puis qil est departi en despit de la Court, &c.—
Gayn. Et nous pernomms voz recordz qe unques
 defendimes forqe pur celi qe nous parloms a ore;
 et demandoms jugement [puis qe vous avetz conu
 qils y sont ij, et navetz pas en vostre brief
 determine vers qi le brief est porte; jugement].⁴—

¹ I., W.² The words par noun are omitted from I.³ avant is omitted from I.⁴ The words between brackets are omitted from I.⁵ From H., and I.⁶ H., filtz.

No. 61.

A.D. 1346 is brought; judgment.—*Hareryngton*. The father need not change his name on account of his son; therefore my writ is sufficiently good.—*SHARSHULLE*. We record that you defended for the father, and even if the father and the son had come then, and taken exception to the writ as you do, the matter shown would have maintained the writ, because a father will never change his name on account of his son; therefore answer.—And he said that he was never the plaintiff's receiver; ready, &c.—And the other side said the contrary.

Entry

(61.) § A writ of Entry *de quibus* was brought against one Robert de Bugyntone, and it was supposed therein that Robert disseised the demandant's father.—*Derworthy*. We tell you that Walter our brother was seised, and died seised, and, after his death, the demandant's father, who was of the half blood to Walter, abated on our possession, and we ousted him, and we demand judgment whether in respect of that ouster he can have an action.—*Huse*. You see plainly how this is a writ touching the right mixed with the possession, and that which he has said amounts to nothing more than that the tenant did not disseise our father; and we will aver that he did.—*HILLARY*. That is a plea in this writ affecting the right just as much as in an assise; therefore answer.—*Huse*. Then we tell you that our grandfather died seised, and, after his death, our father entered as son and heir, and was seised until disseised by you; but we do not admit that your brother died seised; and we demand judgment, &c.—*Derworthy*. As to that we tell you that your grandfather did not die seised; ready, &c.—*Huse*. That is not an issue, since by your plea at the beginning you confessed an ouster of my father, but by reason of abatement on your possession; and as to that we say that he was seised as heir, as above,

No. 61.

Har. Le pere ne deit pas chaunger son noun pur A.D. 1346.
soun fitz ; par quei moun brief est assetz bon.—

SCHARS. Nous recordoms qe vous defendistes pur le pere, et mesqe le pere et le fitz ussent venuz adonques, et chalange le brief come vous faites, la matere moustre meintiendra le brief, qar le pere ne chaungera pas jammes soun noun pur son fitz ; par quei responez.—Et dit qe unges soun resceivour ; prest, &c.—*Et alii e contra.*

(61.)¹ § Brief Dentre *de quibus* fut porte vers un *Entre.*
Robert de Bugyntone, et suppose qe R. disseisi soun *[Fitz.,*
pere.—*Der.* Nous vous dioms qun Wauter nostre *Entre,*
60.] frere fut seisi, et murust seisi, apres qi mort le pere
le demandant, qe fut del demi saunke a Wauter,
abaty sur nostre possession, et nous luy oustames,
et demandoms jugement si de cele ouster il deive
accion aver.—*Huse.* Vous veietz bien coment cest
un brief de dreit myxt en la possesioun, et ceo
qil dit namonte a autre rienz mes qil ne disseisi pas
nostre pere ; et nous voloms averer qe si.—*HILL.*
Taunt avant est ceo plee en ceo brief de dreit come
en une assise ; par quei responez.—*Huse.* Donques
vous dioms qe nostre aiel murust seisi, apres qi
mort nostre pere entra come fitz et heir, et seisi
fut tanqe disseisi par vous ; mes nous ne conissoms
pas qe vostre frere murust seisi ; et demandoms
jugement, &c.—*Der.* A ceo vous dioms qe vostre
aiel ne murust pas seisi ; prest, &c.—*Huse.* Ceo
nest pas issue, puis qe par vostre plee a comence-
ment vous conissates un ouster a moun pere, mes
par abatement sur vostre possession ; et a ceo
dioms nous qil fut seisi come heir, *ut supra*, par

¹ From H., and I.

No. 62.

A.D. 1346. and therefore to take issue on the seisin of the grandfather is nothing to the purpose.—HILLARY. Since he has put you to make a title, and you have made it from the death of your grandfather, and that he has traversed, that suffices for him.—Therefore the issue was accepted by compulsion of the Court.

Avowry. (62.) § William Mirresone was plaintiff against Henry de Catherton¹ in respect of his two cloaks² taken at Lancaster on a certain day, in a certain year, and in a certain place.—*Moubray* avowed the taking for the reason that in the town of Lancaster there were a Provost and Bailiffs who had a fair at a certain time every year, and a market on Saturday; and he said that afterwards, by grant from Kings, there was a Mayor in the same town, and that this Mayor and those Bailiffs after there was a Mayor, and the Provost and Bailiffs before that time were seised of the aforesaid franchise from time whereof there is no memory; and, because the plaintiff on the said Saturday put for sale in the town two bales of cloth, he as bailiff for the time being demanded toll, to wit, one halfpenny for each bale; and, because the plaintiff would not pay it, he took the two cloaks, as it was perfectly lawful for him to do.—*Blaykeston*. Judgment of the avowry, because he

¹ For the names of the defendants | seems preferable to "bells,"
see p. 391, note 1. | because the plaintiff was a dealer

² The translation "cloaks" | in cloth.

No. 62.

quei a prendre issue sur la seisine laiel nest pas a A.D. 1346.
purpos.—HILL. Quant il vous ad mys de faire title,
et vous lavetz fait de la mort vostre aiel, et ceo ad
il traverse, et ceo luy suffit.—Par quei lissue par
chace de COURT fut resceu.

(62.)¹ § William Mirresone fut pleintif vers Henre Avowere.
de Cathertone de ses ij cloches pris en Lancastre [Fitz.,
certain jour, an, et lieu.²—Moubray avowa la prise Avowre,
par la resoun qe en la ville de Lancastre il y avoit 129.]
provost et baillifs les queux avoint faire a certain
temps chesqun an, et marche par jour de Samady;
et dit qe apres, par grant des Rois, il y avoit Meire
en mesme la ville, les queux Meire et baillifs, puis
qil y avoit Meire, et provost et baillifs furent seisis
del avantdite fraunchise de temps dount il ny ad
memore; et, pur ceo qe le pleintif al dit Samady
myst a vente en la ville deux summages de drap, il
come baillif qe adonques estoit li demanda tolun,
saver, pur chesqun summage un maille; et pur ceo
qil ne vodra faire il prist les deux cloches come
bien li lust.³—Blaiik. Jugement del avowere, qar il

¹ From H., and I., until otherwise stated, but corrected by the record, *Placita de Banco*, Easter, 20 Edw. III., R° 331. It there appears that the action was brought by William son of William Mirresone, burgess "villæ de Prestone," against William son of Adam son of Simon de Lancastre, and John de Catherton.

² The declaration was, according to the record, "quod prædicti
"Willelmus filius Adæ, et Johannes,
"die Sabbati proxima post Festum
"Apostolorum Philippi et Jacobi
"anno regni Regis nunc decimo
"septimo, in villa de Lancastre
"in quodam loco qui vocatur le
"Marketsted, ceperunt duas clochas

"ipsius Willelmi filii Willelmi, et
"eas injuste detinuerunt, contra
"vadium et plegios, &c."

³ The avowry was, according to the record, "quod dudum in præ-
"dicta villa de Lancastre præposi-
"tus et Burgenses fuerunt qui
"prædictam villam tenuerunt
"ad feodi firmam de Regibus et
"Dominis Comitatus Lancastriæ
"qui pro tempore fuerint pro
"viginti marcis per annum. Et
"iidem præpositus et Burgenses, et
"prædecessores sui, a tempore quo
"non extat memoria, habuerunt in
"eadem villa feriam, ad Festum
"Sancti Michaelis quolibet anno, a
"vigilia prædicti Festi per quin-
"decim dies tunc proxime sequentes

No. 62.

A.D. 1346. avows on the ground of a franchise which he supposes to abide in the Mayor and the community, in which case he ought to have made a cognisance on their behalf, since he does not affirm any interest in himself except as their officer; and moreover he has confessed that there was at one time a Provost, and he does not show how that head office was changed into a mayoralty either by license or by grant from the King; judgment.—And this exception was not allowed.—*Blaykeston*. We tell you that in the time of King Edward the grandfather of the present King, in the Eyre in the county of Lancaster, a *Quo Warranto* was sued against the Bailiffs and the community of Lancaster to show by what warrant they claimed to have a fair and a market, whereupon they made *profert* of a charter from King John, whereby he granted to them all the franchises which the burgesses of Northampton had; and because in the said grant no particular franchise was expressly granted, and it was not shown by record what franchises the people of Northampton had, and they could not affirm any title of prescription in themselves with regard to the said franchises, judgment was therefore given that the said franchises should be seised into the King's hand as forfeited; and we demand judgment whether by this title of

No. 62.

avowe par cause dun fraunchise qil suppose qe A.D. 1346
 demoert en le Meire et la cominalte, en quel cas
 il dust aver faite une conissaunce pur eux, puis qil
 nafferme rienz en luy mes come lour ministre, et
 auxi il ad conu a un temps qil y avoit provost, et
 il ne moustre pas coment cele sovereynte fut chaunge
 en meraunte par counge ne par graunt de Roi;
 jugement. — *Et non allocatur.* — *Blaik.* Nous vous
 dioms qen temps le Roi E. laiel, en Leire¹ de
 Lancastre, un *Quo Waranto* fut sui vers les baillifs
 et la cominalte de Lancastre par quel garrant il
 cleyme aver feire et marche, ou ils mystrent avant
 la chartre le Roi Johan, par quel il les graunta
 touz les fraunchises queux les Burgeys de Northam-
 tone avoient; et pur ceo qen le dit graunt nulle
 fraunchise éxpressement fut graunte, ne moustre pas
 par record queux fraunchises ceux de Northamtone
 avoient, ne tittle de prescripcion en eux ne purreint
 de les dites fraunchises affermer, par quei fut agarde
 qe les dites fraunchises furent seisis en la mayn le
 Roi come forfaites; et demandoms jugement si a cele

“duraturam, et etiam mercatum
 “qualibet septimana per diem
 “Sabbati, et quicquid ad feriam et
 “mercatum pertinet, et etiam
 “Thurgtolle quolibet die septi-
 “mane de rebus venalibus venien-
 “tibus per mediam villam præ-
 “dictam, licet non ponantur
 “venditioni. Et dicunt quod, post-
 “quam Maior et ballivi fuerunt in
 “eadem villa ex licentia domini
 “Regis, &c., dominus Rex concessit
 “prædictis Maiori et Burgensibus
 “quandam feriam quolibet anno
 “incipientem in vigilia Nativitatis
 “Sancti Johannis Baptistæ, et per
 “duos dies tunc proxime sequentes
 “continue duraturam, ac etiam
 “mercatum qualibet septimana
 “per diem Mercurii tenendum, sibi

“et successoribus suis in perpetuum
 “Et, quia prædictus Willelmus
 “filius Willelmi venit prædicto die
 “Sabbati apud Lancastre præ-
 “dictam cum duobus summagiis
 “panni, et illa posuit venditioni in
 “prædicto loco vocato Marketsted,
 “iidem Willelmus filius Adæ, et
 “Johannes, ut ballivi et Burgenses
 “villæ prædictæ ad tunc petierunt
 “de prædicto Willelmo filio
 “Willelmi tolnetum, videlicet, pro
 “utroque summagiorum prædic-
 “torum obolum. Et, quia prædictus
 “Willelmus filius Willelmi præ-
 “dictos obolos pro tolneto prædicto
 “solvere noluit, ceperunt ipsi duas
 “clochas prædictas prout eis bene
 “licuit, &c.”

¹ I., le Eyre.

No. 62.

A.D. 1346. prescription—contrary to the claim of those who were then bailiffs, who were your predecessors, by which they claimed in virtue of the charter of King John, which is since time of memory, notwithstanding which claim the franchises were seised by judgment—whether you can by such a title maintain this avowry.—*Moubray*. And we demand judgment, since you have not denied that we have such franchises this day, whether we have any need to answer to that which you have said since you do not produce anything in proof of it, and we pray the return.—

No. 62.

title de prescripcion, countre le cleyme ces que furent. A.D. 1346.
adonques baillifs, qe furent voz predecessours, par quel il
cleymerent par la chartre le Roi J., qest puis temps de
memore, nient countreesteaunt quel cleyme les fraun-
chises furent seisis par jugement, si vous puissez par
tiel title ceste avowere meyntener.¹—*Moubray*. Et nous
demandoms jugement, puis qe vous navietz pas dedit
qe nous navoms tiels fraunchises huy ceo jour, si a
ceo qe vous avetz dit, puis qe vous ne moustrez rienz
de ceo, eioms mester a respoudre, et prioms retourn.²

¹ The plea was, according to the record, "quod, tempore domini Edwardi quondam Regis Angliæ avi domini Regis nunc, coram Hugone de Cressingham et sociis suis Justiciariis domini Regis adtunc in prædicto Comitatu Lancastriæ itinerantibus summoniti fuerunt ballivi et communitas villæ de Lancastre prædictæ ad respondendum domino Regi de placito quo waranto clamaverunt habere in prædicta villa liberum burgum, feriam, et mercatum, emendas assisarum panis et cervisiæ fractarum, pillorium, tumberium, infangthef, et furcas in villa de Lancastre prædicta, ad quod iidem ballivi et communitas adtunc dixerunt quod dominus Rex Johannes dudum per chartam suam concesserat burgensibus suis villæ de Lancastre prædictæ qui tunc fuerant omnes libertates quas burgenses sui Norhantonis adtunc habuerunt Et per illam chartam clamaverunt ipsi Burgenses et communitas tunc temporis libertates suas prædictas habere et uti Et quia in illa charta non fuerunt prædictæ libertates præfatis burgensibus et communitati expresse concessæ, nec iidem burgenses et

"communitas adtunc potuerunt in supradictis libertatibus suis titulum præscriptionis affirmare, consideratum fuit coram præfatis Justiciariis adtunc ibidem itinerantibus quod prædictæ libertates seisirentur in manum domini Regis, unde petit iudicium, ex quo prædicti burgenses et communitas tunc clamaverunt habere libertates suas supradictas per chartam domini Regis Johannis prædictam, non obstante qua clamazione eadem libertates per iudicium Curie prædictæ seisitæ fuerunt in manum domini Regis, si ad dicendum quod ipsi habent libertates illas titulo præscriptionis, contra tenorem recordi prædicti, nunc admitti debeant, &c."

² The replication was, according to the record, "Willelmus filius Adæ et Johannes dicunt quod ipsi non habent diem nunc ad aliquas libertates clamandum seu triandum, sed, ex quo prædictus Willelmus filius Willelmi non dedit quin ipsi nunc habent mercatum in prædicta villa per diem Sabbati, et etiam feriam, et quicquid ad mercatum et feriam pertinet, nec quin prædicta captio facta fuit occasione supradicta, petunt iudicium et retourn, &c."

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A.D. 1346. *Haveryngton*. And we demand judgment, since we have alleged interruption of your title, and that by record to which your predecessors were parties, and so you are privy, in which case there is no necessity to have the record in Court; therefore we demand judgment.—And they were adjourned, &c.

Replevin. § Replevin of chattels. The plaint was made in respect of two cloaks in Lancaster. The avowry was made on behalf of the Mayor and bailiffs of Lancaster because the plaintiffs brought four bales of cloth, and put them there for sale on market-day, without paying toll, and the defendants took them for toll in arrear. They supported the avowry by prescription.—*Moubray*. You cannot maintain the avowry on the ground of prescription, because we tell you that in the time of King Edward the grandfather of the present King, at Lancaster, in an Eyre, in such a year, on a *Quo Warranto* you claimed a

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—*Hav.* Et nous demandons jugement, puis qe nous A.D. 1346. avoms allegge interrupcion de vostre title, et ceo par record a quei voz predecessours furent parties, et issi vous prive, en quel cas il ne covent pas aver le recorde prest; par quei nous demandons jugement, &c.¹—Et sount ajournez, &c.²

§ *Replegiari*³ des chateux. La plainte fuit fait de *Replegiari*. deux cloches en Launcestre. Lavowere fuit fait pur Meire et baillifs de Launcestre pur ceo qe les pleintifs menerent iiij summaillès de drape, et le mistrent illoeqes a vent jour du marche, sanz paier toun, ils pristrent par toun arrere, &c. Lierunt lavowere par prescripcion.—*Moubray*. Par prescripcion ne poietz lavowere meintener, qar nous vous dioms qen temps le Roi E. laiël, a Launcestre, en un Eyere, tiel an, a un *Quo Waranto*, vous clamastes

¹ According to the record, "Willelmus filius Willelmi dicit quod, "ex quo prædicti Willelmus filius Adæ et Johannes non deducunt quin in prædicto itinere præfati ballivi et communitas qui tunc fuerunt clamaverunt libertates prædictas per chartam prædictam Regis, quæ quidem libertates, ut præmittitur, seiscitæ fuerunt in manum Regis, petit judicium si iidem ballivi nunc admitti debent ad dicendum quod ipsi libertates illas habuerunt a tempore quo non extat memoria, contra recordum prædictum, vel si captionem prædictam, contra hoc quod ipsi superius allegarunt, justam advocare possint in hoc casu, &c."

² According to the roll, after two adjournments, "modo veniunt partes prædictæ per attornatos suos, et hinc inde petunt judicium, super placito suo superius

"placitato."

Judgment was then given:—
"Quia prædictus Willelmus filius Willelmi superius non deducit quin prædicti Burgenses et ballivi nunc habent mercatum in prædicta villa, et quicquid ad mercatum pertinet, nec quin prædicta captio facta fuit pro tolneto prædicto, quod proprie ad idem mercatum pertinet rationibus superius allegatis, nec iidem ballivi ad aliquas libertates quales prædictus Willelmus filius Willelmi superius allegavit clamandas seu triandas habent modo diem in Curia ista, Consideratum est quod iidem Willelmus filius Adæ, et Johannes habeant retorum prædictarum clocarum. Et prædictus Willelmus filius Willelmi in misericordia, &c."

³ This report of the case is from L., and C.

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A.D. 1346. market by grant from King John; judgment, since you claimed in virtue of a grant made since time of memory, whether by title of prescription you can maintain this avowry.—*Haveryngton*. And, inasmuch as you have not denied that there is a market, the question whether it commenced before time of memory or since is nothing to the purpose, since you have not destroyed the cause of our avowry; judgment, and we pray the return.

*Quare
impedit.*

(63.) § The King brought a *Quare impedit* against the Prior of Bath, and counted, by *Notton*, that it belonged to him to present for the reason that one Maud Chaumflour was seised of the advowson, and held the advowson of King Edward the grandfather of the present King *in capite*, and presented her clerk, one Martin Chaumflour, in the time of the same King, and that this Maud aliened the advowson to one Walter, the Prior's predecessor, which Walter appropriated the same church without license, and therefore the right to present accrued to King Edward the grandfather. And from him *Notton* made the descent to the present King. And so, said *Notton*, it belongs to the King to present.—*Huse*. As to that we tell you that Maud never had anything in the advowson, and that Martin Chaumflour was not admitted on her presentation, and that she did not aliene the advowson to our predecessor; but we and our predecessors have held the church *in proprios usus* from the time of the Conquest to the present.—*Notton*. Whereas you have said that Maud did not aliene the advowson to Walter, your predecessor, you shall not be admitted to that, for we tell you that a fine was levied in the time of King Henry between Maud and your predecessor Walter, by which fine Maud acknowledged the advowson to be the right of your predecessor, as that which he had of her gift (and *Notton* made

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marche par grant le Roi Johan; jugement, de puis A.D. 1346. qe vous clamastes par grant fait puis temps de memore, si par title de prescripcion, &c.—*Har.* Et, desicomme vous navietz pas dedit qil y ad marche, fuit ceo comence devant temps de memore ou puis, nest pas a purpos, quant vous ne destruistes pas la cause de nostre avowere; jugement, et prioms retourn.¹

(63.)² § Le Roi porta *Quare impedit* vers le Priour de Bathe, et counta, par *Nottone*, qe a lui appent a presenter par la resoun qune Maude Chaumflour³ fut seisi del avoweson, et tint lavoweson del Roi E. aiel en chief, et presenta soun clerc un S.⁴ en temps de mesme le Roi, la quele M. aliena lavoweson a un W.⁵ predecessour le Priour, le quel W. saunz conge mesme la eglise appropria, par quei droit de presenter acrust al Roi laiel. Et de luy fit la descente al Roi qore est. Et issi appent a luy, &c.—*Huse.* A ceo vous dioms nous qe Maude navoit unges rienz en lavoweson, ne S. ne fut pas resceu a son presentement, ne ele naliena pas lavoweson a nostre predecessour; mes nous et noz predecessours avoms tenuz leglise en propre oeps de temps de la conquete tanqe en cea.—*Nottone.* La ou vous avetz dit qe Maude nel aliena pas a W. vostre predecessour, a ceo ne serretz resceu, qar nous vous dioms qe fin se leva en temps le Roi H. entre M. et W. vostre predecessour, par quel fine M. conust lavoweson estre le droit vostre predecessour, come ceo qil avoit de

¹ The conclusion of the reports of this case is in Y.B., Mich., 20 Edw. III., No. 107.

² From H., and I. This is another report or one in continuation of Y.B., Easter, 19 Edw. III., No. 42 (pp. 114-119). The record, *Placita de Banco*, Easter, 19

Edw. III., R^o 282, d, is there cited.

³ MSS. of Y.B., Chaumflour.

⁴ Martin Chaumflour according to the record.

⁵ Walter de Aune according to the record.

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A.D. 1346. *profert* of the fine), and we demand judgment whether contrary to the fine to which his predecessor was a party, and by which the gift is proved, you shall be admitted to deny the alienation.—*Moubray*. Our answer is to the effect that we have held the church *in proprios usus* from all time, and the fine which you allege does not in any way disprove that point, and therefore we demand judgment.—*WILLOUGHBY*. You cannot say that you have held the church *in proprios usus* from all time in opposition to the fine by which it is proved that Maud gave to your predecessor; therefore will you say anything else?—*Huse*. Sir, you see plainly how he took for title the statement that Maud aliened the advowson in the time of King Edward the grandfather, and the fine which he alleges was levied in the time of King Henry, by which fine it is supposed that a gift was made previously, and therefore that fine could not prove the same gift of which your count makes mention; and, moreover, even if it could be proved in the fine that the acknowledgment of the gift which was mentioned was by the words of Maud and not by the words of the Prior, that acknowledgment is not on that account strong enough to oust us, who are his successor, from averring the contrary against him.—*WILLOUGHBY*. And will you not say anything else?—*Grene*. We will plead with him, Sir, and we demand judgment, since we have made *profert* of a fine to which his predecessor was a party, and which proves a gift, which fine he has not avoided, whether he shall be admitted to traverse that which is included in the fine.

Dower. (64.) § Roger Petigarde and his wife brought a writ of Dower. The tenant vouched the husband's heir, who was under age. The vouchee appeared on the first day, and warranted, and confessed the demandant's action.—*STOUFORD*, to the demandant.

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soun doun—et myst avant la fine—et demandoms A.D. 1346. jugement si encountre la fine a quei soun predecessour fut partie, par quel le doun est prove, si a dedire cele serretz resceu.—*Moubray*. Leffect de nostre respouns est de ceo qe nous avoms tenuz leglise en propre oeps de tut temps, et la fine qe vous alleggez ne desprove rienz cele point, par quei nous demandoms jugement.—*WILBY*. Vous ne poetz dire qe vous avetz tenu leglise en propre oeps de tut temps encountre la fine par quele est prove qe M. dona a vostre predecessour; par quei voletz autre chose dire?—*Huse*. Sire, vous veietz bien coment il prist pur title qe M. aliena lavowesoun en temps le Roi E. laiel, et la fine qil allegge fut leve en temps le Roi H., par quel est suppose un doun fait avant, par quei cele fine ne pout prover mesme le doun de quei vostre counte fait mencion; et auxi mesqil poeit en la fine estre prove qe la conissaunce de doun qe fut parle fut la paroule M. et ne mye la parole le Priour, par quei cele conissaunce nest pas si fort qe nous ouste, qe sumes successour, de lui daverer le contrare.—*WILBY*. Et autre chose ne voletz dire?—*Grene*. Nous pledroms, Sire, ovesqe luy, et demandoms jugement, de puis qe nous avoms mys avant fine par quel son predecessour fut partie, et qe prove un doun, quel fyn il nad pas voide, si a traverser ceo qest compris deinz la fine serretz resceu, &c.¹

(64.)² § Roger Petigarde et sa femme porterent Dowere. brief de Dowere. Le tenant voucha leir³ le baroun, qe [Fitz.,
Jugement,
179.] fut deinz age, qe vient a primer jour, et garranti, et conust laccion le demandant.—*Stouf.*, al demandant.

¹ After the Prior's plea the record shows nothing but adjournments, which, however, were continued as far as Michaelmas Term in the

37th year of the reign

² From H., and I

³ I., le heir.

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A.D. 1346. Has the heir assets by descent?—[*The demandant.*] Yes, Sir.—STOUFORD. He is under age, and can well confess the demandant's action, but he cannot render dower by reason of his tender age.—And STOUFORD gave judgment that the demandant should recover against the heir simply, because the demandant had supposed that the heir had assets. But the infant, because he appeared on the first day, and also because he was under age, was not amerced.

Waste. (65.) § The Earl of Hereford brought his writ of Waste against the Countess of Hereford, and assigned waste in houses, lands, and woods, which she held in dower of his inheritance, that is to say, that she had pulled down a hall, bedchambers, and a kitchen, in the land had dug pits in one acre, and carried off clay, and in the woods had felled oak-trees, ash-trees, and oaklings.—She pleaded that no waste had been committed, &c.—The inquest was taken in the country at *Nisi prius* before KELSEHULL, who now returned the verdict of the jury into the Common Bench. And after he had returned it he caused it to be amended, and inasmuch as the waste was found in a wood, to wit, one hundred oaks, the value of each being, &c., he made an addition, that is to say, that it was found that she had felled trees in divers places in the whole of the wood. The verdict was then to the effect that the houses in respect of which the waste was assigned were burnt, through want of care, by one of the Countess's male-servants, and that she had felled a part of the oaks in respect of which the plaintiff had assigned waste, and with them had built new houses as good as the old houses in the same place in which the old houses had stood; and also that she had dug clay in old pits, in one rood of land, to make the same houses, as well as to repair old houses; and also that she had felled forty oaks of a certain size to enclose the said park; and also

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Ad leir¹ assetz par descence? — [*Le demandant.*] A.D. 1346
 Sire, oil.—STOURF. Il est deinz age, et put bien
 conustre laccion le demandant, mes il ne put rendre
 pur la tendresce de soun age.—Et il agarda qe
 le demandant recoverast vers leyr *simpliciter*, pur
 ceo qil avoit suppose qil avoit assetz. Mes lenfaunt,
 pur ceo qil vient al primer jour, et auxi fut deinz
 age, ne fut pas amercie, &c.

(65.)¹ § Le Counte de Herford porta soun brief ^{Wast.}
 de Wast vers la Countesse de Herford, et assigna ^{[Fitz.,}
 wast en mesouns, terres, et bois, queux ele tient en ^{Amende-}
 dowere de son heritage, saver abatu une sale, ^{ment, 67;}
 chambres, quizine, en terre fowe putees en une ^{Wast, 32.]}
 acre de terre, et arcille enporte, et en bois abatu
 keynes et frenes et cheles.—Ele pleda nulle wast
 fait, &c.—Lenqueste fut pris par le *Nisi prius* en
 pays devant KELS., qe retourna ore en Baunk le
 verdit del enqueste. Et apres qil lavoit retourne il
 le fist amendre, en taunt qe le wast fut trove en
 bois, saver c. keynes, pris de chescun, &c., la fit il
 une adjeccion, saver, qil fut trove gele les avoit
 abatu en divers lieux en tut le bois. Donques fut le
 verdit tiel qe les mesouns des queux le wast fut
 assigne furent ars, pur defaute de garde, par un des
 garsouns la Countesse, et gele avoit abatu partie des
 keynes de quei il ad assigne wast, et par ceux fait
 novels mesouns auxi bons come les aunciens en
 mesme le lieu qe les aunciens mesouns esturent;
 [et auxi gele avoit fowe arcille en aunciens putes,
 en un rode de terre, pur faire mesmes les mesouns,
 et auxi pur redresser aunciens mesouns];² et auxi
 gele avoit abatu xl. keynes de certeyn grossure
 denclore le dit Park; et auxi gele avoit abatu

¹ From H., and I., until other-
 wise stated.

² The words between brackets are
 omitted from I.

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A.D. 1346. that she had felled forty oaks of dead wood, which the jury did not understand to be waste; and also that she had felled forty green oaks, and of them had made charcoal to burn within the same houses for necessary purposes; and also that she had cut eight score oaklings, the value of the whole of them being eight pence; and also that she had felled oaks in divers places in the whole of the wood.—*Birton*. We understand that a Justice of *Nisi prius* cannot amend his record after he has returned it, and particularly in respect of a matter which is of the substance of the verdict; and at first he did not return any words to the effect that oaks were felled in divers places in the whole wood, in which case on such a return the plaintiff would recover only the place wasted; and if the Justice be admitted to amend it, and judgment pass against us, the plaintiff will, in the opinion of some persons, recover the whole wood; therefore we do not understand that you will admit him to amend the return.—*WILLOUGHBY*. Certainly, if his return is not sufficiently full, he can amend it well enough, and that we have often seen; therefore, if you have anything else to say with regard to the verdict, say it.—*Grene*. Willingly, Sir. You see plainly that as to the houses it is found that they are newly constructed to as good value as they were before, and in respect of them no waste can be adjudged. And it is also found that we dug in old pits, which had previously been wasted; and also that what we dug there was for the reconstruction of the new houses which were built in lieu of the old houses, and also for the repair of old houses, which digging for those causes cannot be adjudged any waste. And it is also found that we felled oaks to enclose the park, which it is allowable to do. And we are also discharged with regard to the dead wood, because it appeared to the

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xl. keynes de mort boys, quel enqueste entendi qe ^{A.D. 1346.} ne fut pas wast; et auxi qele avoit abatu xl. keynes vertes, et de ceux fait carbouns dardre deins mesmes les mesouns pur choses necessaries; et auxi qele avoit coupe viii. cheletz pris trestouz de viii^{d.}; et auxi qele avoit abatu keynes en divers places en tut le bois.—*Birtone*. Nous entendoms qe Justice de *Nisi prius* ne poet amendre son recorde apres qil leit¹ retourne, et nomement de chose qest la² substance du verdit; et a comencement il retourne nulle parole qe les keynes furent abatus en divers lieux³ en tut le bois, en quel cas sur tiel retourne il recoversa mes le lieu waste; et sil soit resceu del amendre, si jugement passa countre nous, il recoversa, al entente dascuns, tut le bois; par quei nentendoms qe vous luy voilletz resceivere del amendre.—*WILBY*. Certainement, si son retourn ne soit pas assetz plein, il lamendra assetz bien, et ceo avoms veu sovent; par quei, si vous eietz asqune chose a dire sur le verdit, ditez le.—*Grene*. Sire, volunters. Vous veietz bien quant as mesouns il est trove qils sount novelement faites dauxi bone value come ils furent avant, de queux nul wast ne poet estre ajugge. Et auxi il est trove qe fowames en auncienes putes queux furent wastes avant; et auxi ceo qe nous fowames illoeges fust en amendement de les novels mesouns qe furent faites en lieu daunciens mesouns, et auxi en repareiller des auncienes mesouns, quel fowere par celes causes nul wast poet estre ajugge. Et auxi est trove qe nous abatimes keynes pur enclorre le Park, qest congeable a faire. Et auxi del mort bois nous sumes descharge, pur ceo qil sembloit a ceux del

¹ L., est.² L., del.³ H., places.

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A D. 1346. jurors that this was not waste. And with regard also to the trees which were felled for charcoal to burn within the houses for necessary purposes, that felling is avowable by law for our support. And with regard to the finding that we felled eight score oaks in divers places in the whole wood that is repugnant, because, if they are felled in divers places, it must be supposed that the whole wood is not felled, and the rest of the statement is to the effect that the whole wood is felled; therefore you cannot render any judgment on this verdict.—*Notton*. As to the houses it is found that they were burnt through want of proper care, and so that is waste; and, even though you have built new houses, the waste which was previously committed shall not on that account be committed with impunity, and particularly when they were built with trees growing in the same tenancy. And, as to the land, the digging in the old pits is waste, even though you did not begin it, because, if you had dug anew in a new place for an allowable purpose, and had afterwards dug and sold the clay, the last digging would be adjudged waste even though the first would not be so; so also in this case, even though the pits were old, the digging which you did for the new houses was not allowable. And with regard also to the fact that you felled green oaks to enclose the park, you did that which was not allowable, since there was dead wood available. And, moreover, you cannot fell trees to make charcoal to burn within the houses, because dead wood for firewood would suffice, without making charcoal, for necessary purposes.—*Grene*. And, moreover, as to the felling of eight score oaklings, the value of which was stated to be a total of eight pence, there cannot be said to be waste of such a value, and particularly since it must be supposed that these oaklings were underwood,

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enqueste qe ceo ne fut pas wast. Et auxi des A.D. 1346.
 arbres qe furent abatuz pur carbouns pur ardre
 deinz les mesouns pur choses necessaries cest
 avowable par la ley pur la sustenance de nous.
 Et de ceo qest trove qe nous abatimes viii. keynes
 en divers places en tut le bois, cest repugnant, qar,
 sils soient abatuz en divers places, il est a supposer
 qe tut le bois nest pas abatu, et le remenant est
 del entent qe tut le bois est abatu; par quei sur
 cest verdit vous ne poetz nul jugement de ceo
 rendre.—*Nottone*. Quant as mesouns il est trove
 qen defaute de garde ils furent ars, et issi ceo est
 wast; et mesqe vous eietz¹ fait novels, par taunt
 ne serra pas le wast fait avant despuny, et nome-
 ment quant ils furent faites par les arbres cressauntz
 en mesme la tenance. Et, quant a la terre, le
 fowere en les auncienes putees est wast, mesqe vous
 le comenceastes pas, qar si vous ussez fowe en une
 novele place de novele pur chose congeable, et apres
 ussez fowe et le vendu, le drein fowere serra ajugge
 wast mesqe le primer ne serra pas; et auxi en ceo
 cas, mesqe les putees furent aunciens, le fowere qe
 vous faitez a les novels mesouns ne fut pas
 congeable. Et auxi de ceo qe vous abatistes vertes
 keynes pur enclore, puis qe mort boys il y ad,
 vous facez² chose nient congeable. Et auxi vous ne
 poietz abatre arbres pur faire carbouns darder deins
 les mesouns, puis qe mort boys pur ardre, saunz
 carbouns faire, pur choses necessaries purra suffire.—
Grene. Et auxi quant al abatement de viii. chelez,
 la value de queux fut assumme a viii deners, de
 quel pris wast ne poet estre dit, et nomement puis
 qe ceo est a supposer qe cest soutz boys, qar

¹ I., aviez.| ² I., faites

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A.D. 1346. because otherwise they would not be of so little value.

—*Notton*. If the whole wood was felled in the time of your husband, and trees began to grow anew, if you felled them you committed waste; and it has not been found that there was high wood, and that this was underwood.—Therefore *SHARSHULLE* said:—If there be high wood, it cannot be said that to fell underwood is waste; but, if there is not any high wood, it is waste; and in this case it has not been enquired whether the one or the other is the fact, wherefore, &c. And it seems that trees of so little value cannot fall within an action of Waste.—*Moubray*. See here the proof that it can be so, for if a woman holds in dower lands in which young oaklings are growing, and puts into the land her beasts which destroy the oaklings by trampling on them, though the whole of them may not be worth two pence to sell, it will be adjudged waste; and for the same reason in this case the value of the trees does not constitute the waste, but the disherison which is effected.—*Grene*. It is true that you will have an action of Waste in that case, but you will have to assign the waste in that by the trampling of her beasts she destroyed, &c., and not to assign it in that she felled the trees, because on such a count you will take nothing on such matter, and therefore in virtue of this waste, which you have assigned as in the cutting of trees which do not bear sufficient value, you will not maintain the action; therefore, &c.—*Notton*. With regard to what has been found to have been felled in the whole wood, which is clear, we pray at least judgment as to that, and our damages.—*WILLOUGHBY*. You will not have your judgment by parcels, unless you will waive your judgment as to the rest. And since we are not advised whether waste shall be adjudged in the houses notwithstanding the rebuilding, or not, nor yet with regard to the other points, therefore observe your days, &c.

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autrement ils ne serront de si petit value.—*Nottone*. A.D. 1346. Si tut le bois¹ fut abatu en temps vostre baron,² et comencea de crestre de novel, si les abatez vous facetz wast; et il nest pas trove qil y ad haut boys, et qe ceo est soutz bois.—Par quei Schs. Sil y eit haut bois, homme ne poet dire qe de abatre soutz bois est wast; et sil ny ad pas il est; et ore nest il pas enquis le quel il soit un ou autre, par quei, &c. Et il semble qe arbres de si petite value ne pount chere en accion de Wast.—*Moubray*. Veietz cy la prove qe si, qar si un femme tiegne en dowere terre en quel jeofnes cheletz sont cressauntz, et mette ses bestez en la terre qe destruent les cheletz par groussure, mesqe eux touz ne vaillent a vendre ij.d., il serra ajuge wast; et par mesme la resoun en ceo cas la value des arbres ne fait pas le wast, mes la desheritance qest fait.—*Grene*. Il est verite qe vous averetz accion de Wast en cel cas, mes vous assigneretz le wast qe par groussure de ses bestes ele destruit, &c., et ne mye dassigner quele les abati, qar sur tiel counte vous ne prendrez rienz sur tiele matere, par quei en ceste wast qe vous avetz assigne en le couper des arbres qe ne portent pas la value vous nel meyntendrez pas; par quei, &c.—*Nottone*. De ceo qest trove abatu en tut le boys, qest cler, nous prioms au meyns jugement de cele, et noz damages.—*Wilby*. Vous nayeretz pas vostre jugement par parcelles, si vous ne voletz weyver vostre jugement del remenant. Et pur ceo qe nous ne sumes pas avisetz le quel wast serra ajuge en les mesouns nent countreesteant le novel fesaunce, ou nent, ne en les autres pointz auxi, par quei gardez voz jours, &c.

¹ The words le bois are omitted from I.

² I., vostre temps, instead of temps vostre baron.

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A.D. 1346. § Waste between the Earl of Hereford, plaintiff,
Waste. and the Countess of Hereford, defendant.—*Grene*. It is found by verdict that she dug, in old pits, clay for the construction of new houses, and the repair of old houses, which cannot sound in waste.—*Notton*. Digging in old pits is as much waste as making new pits, and since this was done for the construction of new houses, which are not necessities, it must be adjudged waste.—*Grene*. It is found also that some houses were burnt by misfortune, and rebuilt as well as those which had previously stood there, and that cannot be called waste.—*Notton*. It is found that they were burnt through want of proper care, and so it is waste. And it is not found that you have constructed new houses with your own timber, but it is found that you felled the woods of the manor for their construction, and that is waste.—*WILLOUGHBY*. The houses and the woods as well cannot be adjudged to be waste in this case.—*Grene*. As to one wood it is found that we felled, in one hundred acres of wood, twenty-six oaks, whereof a moiety was dry wood, and that for charcoal to burn in the manor, which is necessary estovers, in respect of which waste cannot be assigned, nor in so large a wood can the rest be said to be waste.—*Notton*. It is found that you cut them throughout the whole of the wood, and so it is waste throughout; and it was never law that you could avow the felling of oaks for charcoal.—*SHARSHULLE*. And if there was not any underwood, do you think she might not fell oaks to burn? as meaning to say that she might. And charcoal is a necessary, and she could not have it except from the great trees.—*Notton*. I do not think so, and in this case it is found that there was underwood.—*Grene*. So also with respect to three hundred oaklings felled in another wood it is found that twenty of them were

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§ Wast¹ entre le Counte de Hereforde, pleintif, et A.D. 1346.
la Countesse de Hereforde, defendante.—*Grene.* Il Wast.
est trove par verdit qele fowa, en aunciens putes,
arsille pur novels mesouns faire, et veilles² reparailler,
quele chose [ne] poet soner en wast.—*Nottone.* Fower
en aunciens putes est auxi bien wast comme de
faire novels putes, et quant ceo fut fait pur faire
novels mesouns, qe ne sount pas necessaries, ceo
covient estre ajuge wast.—*Grene.* Il est trove auxint
qe asquns mesouns par infortune furent ars, et tant
bien edifietz comme les autres furent, qe ne poet
estre dit wast.—*Nottone.* Il est trove qe par default
de garde eles furent ars, issint qe cest wast. Et il
nest pas trove qe vous avetz fait de vostre merym
demene novels mesouns, mes il est trove qe vous
abatistes les boys del maner pur les faire, qest wast.
—*Wilby.* Homme ne poet pas ajugger les mesouns
et les boys auxint estre wast en cel cas.—*Grene.*
Quant a un boys il est trove qe nous abatismes, en
c. acres de boys, xxvj keynes, dount la moite fuit
seke, et ceo pur carbouns ardre en le maner, quele
chose est estover necessarie, de qai wast ne poet
estre assigne, ne le remenant en si grand boys ne
poet estre dit wast.—*Nottone.* Il est trove qe vous
les coupastes par tut les boys, issint par tut est il
wast; et pur carbouns ne fuit ceo unqes ley qe vous
avoweretz dabatre des keynes.—*Schar.* Et si ny avoit
pas south boys, quidetz vous qele nabatereit pas
keynes pur ardre? *quasi diceret sic.* Et carbouns sount
necessaries, et ceo ne poait ele aver forqe des grosses
fuytes.—*Nottone.* Ceo ne crey jeo pas, et icy est il
trove qil y avoit south boys.—*Grene.* Auxi de keynettes
ccc³ abatuz en un autre boys trove est qe xx ne

¹ This report of the case is from
L., and C.

² L., illoqes.

³ L., tut, instead of ccc.

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A.D. 1346. not worth more than a penny, and so they were of so little value that an action respecting them could not be given by way of Trespass, nor consequently can the felling of them sound in waste, because they can be nothing but underwood.—*Notton*. Out of oaklings come and grow great oaks, and from your statement it would follow that the saplings of oaks might always be cut down, so that there would never be any wood at all.—*Moubray, ad idem*. If I have in a close oak-saplings growing, and I lease the close for term of life, or a woman holds it in dower, and they put beasts into the close, and trample down and depasture the saplings, is not that waste? And if they have grown higher so that they cannot be trampled down, will not the cutting of them be adjudged waste? — *SHARSHULLE*. If there is other wood as covert above, that which is below is underwood, but, if there is not any such wood above, it is waste.—They were adjourned.

Right of
advowson. (66.) § The King brought his writ of Right of advowson against the Prior of the Hospital of St. John of Jerusalem in England, and William de Langeforde, and demanded the advowson of a fourth part of the tithes of the church of Saint Dunstan in the West in the suburb of London. William made default after default. The Prior said that he was tenant of the whole, *absque hoc* that William had anything, and prayed that the King might count against him. And because the King heretofore counted

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valent qun dener, et issint de si petit value de qai A.D. 1346.
 accion ne poet estre done par voie de Trans, *nec*
per consequens soner en wast, qar ceo ne poet estre
 forqe south boys.—*Nottone*. De keynettes venent et
 cressent grosses keynes, et de vostre dit ensuerait qe
 homme abatereit touz jours les launces des keynes
 qe homme navereit jammes boys.—*Moubray, ad idem*.
 Si jay¹ en un clos² launces des keynes cressautes,
 et jeo les lesse a terme de vie, ou femme les tient
 en dowere, et ils mettent einz bestes, et les
 debrusent et pasturent, nest ceo wast? Et, sils soient
 plus haut crues qils ne poient estre bruses, ne serra
 le couper deux³ ajuqe wast?—*SCHAR*. Sil y eit autre
 covert de boys paramount ceo⁴ south boys, mes sil
 ny ad pas ceo est wast.—*Adjournantur*.⁵

(66.)⁶ § Le Roi porta son brief de Dreit davowesoun Dreit
davowe-
soun.⁷
 vers le Priour del Hospital⁸ de Seynt Johan de [Fitz.,
Droit.
15.]
 Jerusalem en Engleterre, et William de Langeforde,
 et demanda lavowesoun de la quarte partie de dismes
 del eglise de Seynt Dunstone le West en le suburbe
 de Loundres. William fist defaute apres defaute.
 Le Priour dit qil fut tenant del enter, saunz ceo qe
 William rienz avoit, et pria qe le Roi countast vers
 luy. Et pur ceo qe le Roi counta autrefoith vers

¹ L., jeo ay.

² L., chose.

³ C., de eux.

⁴ C., ceo nest pas. In L. there is an erasure and a blank. The passage appears to be corrupt.

⁵ See Y.B., Mich., 20 Edw. III., No. 33.

⁶ From H., and I., until otherwise stated, but corrected by the record, *Placita de Banco*, Easter, 20 Edw. III., R^o 373, d. It there appears that the action was brought by the King against William de

Langeforde, knight, and the Prior of the Hospital of St. John of Jerusalem in England, to answer

"de placito advocacionis quartæ

"partis decimarum ecclesiæ Sancti

"Dunstani West in suburbio

"Londoniarum, quam clamat ut

"jus ipsius domini Regis per breve

"de Recto de advocacione, &c."

For the beginning of the case, see Y.B., Trin., 19 Edw. III., No. 12 (pp. 150-152).

⁷ davowesoun is from I. alone.

⁸ I., Ospital.

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A.D. 1346. against them both, at which time they had view, and the count was entered, he was put to answer without having a new count. Therefore he denied the words, by *Birton*, and prayed leave to imparl.—*Thorpe*. You are not in a position to imparl, because you said that you were tenant of the whole, and were ready to answer with respect to the whole, and therefore you ought to be ready, just as a wife would be who had been admitted to defend by reason of the default of her husband; and, inasmuch as you do not answer, we demand judgment.—*SHARSHULLE*. Certainly we cannot give you leave to imparl, if the King's Serjeants are not willing to allow it.—Therefore *Birton* denied tort, and force, and the King's right absolutely, and the seisin of Edward the King's father, of whose seisin he had counted, as of fee and right, of that which he demands as the advowson of a fourth part of the tithes of the church of St. Dunstan, which (said *Birton*) we hold as the advowson of a third part of the church of Our Lady of the New Temple, and the Prior puts himself on God and a jury, in lieu of the Grand Assise of our Lord the King, as to whether he has the greater right to hold the advowson of a fourth part of the tithes of the church of St. Dunstan as the advowson of a third part of the tithes of the church of

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eux ij, a quel temps ils avoient la vewe, quel counte A.D. 1346. fut entre, il fut mys a respondre saunz aver novel counte.¹ Par quei il defendi les paroles, par *Birtone*, et pria conge denparler.—*Thorpe*. Vous nestes pas en cas denparler, qar vous deistes qe vous futes tenant del enter, et prest fustes a respondre del enter, par quei vous deveretz estre prest, come serra femme qest reaceu par la defaute soun baroun; et de ceo qe vous nē responez pas nous demandoms jugement. — *SCHARS*. Certeynement nous ne vous poums doner conge denparler, si les serjaunts le Roi ne voillent suffrer.—Par quei *Birtone* defendi tort, et force, et le droit le Roi tut attrenche, et la seisine Edward son pere, de qi seisine il ad counte, tut outre de fee et de droit, de cea qil demande come lavowesoun de quarte partie des dismes del eglise de Seynt Dunstone, quel nous tenoms come lavowesoun de la terce partie del eglise de Nostre Dame de Novel Temple, et se met en Dieu et en la jure, en lieu de graunde assise nostre seignur le Roi, le quel il ad meur droit a tenir lavowesoun de quarte partie des dismes del eglise de Seynt Dunston come lavowesoun de la terce partie des dismes del eglise

¹ According to the roll William de Langford did make default after appearance, and after the count, as below, had been entered. Seisin was prayed on the King's behalf. "Et super hoc prædictus Prior venit, et dicit quod ipse est tenens de integro prædictæ advocacionis quartæ partis decimarum, et petit quod ipse admittatur ad respondendum domino Regi de integro, &c., et admittitur."

The count was then repeated on the King's behalf, "quod quidam dominus Rex Angliæ, pater domini Regis nunc, fuit seistus de

"advocatione integra ecclesiæ prædictæ ut de feodo et jure, et ad eandem ecclesiam præsentavit quendam Robertum le Boor, clericum suum, qui quidem clericus cepit inde expletia ut in grossis decimis, minutis decimis, oblationibus, obventionibus, et aliis, ad valentiam, &c., tempore . . . ejusdem Regis Edwardi patris, &c. Et de ipso Edwardo Rege patre, &c., descendit jus advocacionis quartæ partis prædictæ domino Regi nunc ut filio et heredi, &c., qui nunc petit, &c. Et hoc paratus est verificare pro domino Rege, &c."

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A.D. 1346. Our Lady of the New Temple as his right and the right of his Hospital aforesaid, as he holds it, or the King to have it as the advowson of a fourth part of the tithes of the church of St. Dunstan. as he demands.—*Thorpe*. Why will you not tender a half-mark for the time?—And this he said because in another plea it was said by some that one shall tender a half-mark for the King as against any other person.—But at last they agreed that one will never tender it as against the King, and that one will never have final judgment against the King.—And in the end *Thorpe* said:—Let the mise stand.—And a day of grace was given.

Right. § The King brought a Right of Advowson. in respect of the fourth part of the tithes of the church of St. Dunstan in the West in the Suburb of London, against the Master of the Hospital of St. John, and William Langeforde, knight. And at the *Cape* William made default, and thereupon the Master said that William had nothing, but that the Master was tenant ready to answer. And he denied tort and force, and the right, &c., absolutely, and the seisin of the King's ancestor, Edward by name, heretofore King of England, father of our Lord the King that now is, whom may

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Nostre Dame de Novel Temple come son dreit et A.D. 1346.
le dreit son hospital avantdit, sicome il tient, ou le
Roi a aver le come lavowesoun de la quarte partie
de dismes del eglise de Seynt Dunstone, come il
demande.¹—*Thorpe*. Pur quei ne voletz tendre demi
mark pur le temps?—Et ceo dist il pur ceo qen
un autre ple fut dit par asquns qomme² tendra
demi mark pur le temps pur le Roi come vers
autre persone.—Mes a dreyn ils assentirent qil ne
tendra jammes vers le Roi, ne qe homme navera
pas jugement final vers le Roi.—Et a dreyn *Thorpe*
dit:—Estoise la mise.—Et jour de grace done.³

§ Le⁴ Roi porta brief de Dreit davowesoun, de la Dreit.
qarte partie des dismes del eglise de Seint Dunstan
West en le suburbe de Loundres, vers le Mestre del
Hospital de Seint Johan, et W. Langforde, chivaler.
Et al *Cape* fist defaute, par qai le Mestre dit qil
navoit rienz, mes il est tenant prest a respoundre.
Et defendi tort et force, et le dreit, &c., tut atrenche,
et la seisine son auncestre, E. par noun, jadys Roi
Dengleterre, pere nostre seignur le Roi qore est, qi

¹ The Prior's plea was, according to the record, "quod, cum dominus Rex petat versus eum prædictam "advocationem quartæ partis "decimarum ecclesiæ Sancti "Dunstani West in suburbio "Londoniarum, ipse Prior tenet "advocationem illam ut advoca- "tionem tertie partis decimarum "ecclesiæ beatæ Mariæ Novi "Templi in suburbio Londoniarum, "ut de jure Hospitalis sui prædicti. "Et inde defendit jus suum quando, " &c., et seisinam prædicti Edwardi "Regis patris domini Regis nunc, "de cujus seisina, &c., et totum, " &c. Et ponit se in juratam loco "magnæ assisæ domini Regis. Et "petit recognitionem fieri utrum "ipse majus jus habeat tenendi

"advocationem illam ut advoca- "tionem tertie partis decimarum "ecclesiæ beatæ Mariæ prædictæ "ut de jure Hospitalis sui prædicti, "sicut eam tenet, an dominus Rex, " &c."

² I., qe homme.

³ According to the roll, "Ideo "præceptum est Vicecomiti quod "venire faciat hic in Octabis "Sancti Johannis Baptistæ, tam "prece prædicti Johannis qui "sequitur, &c, quam prece præ- "dicti Prioris xij, &c."

There were subsequent adjourn- ments, but nothing further appears on the roll.

⁴ This report of the case is from L., and C.

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A.D. 1346. God preserve. of whose seisin as of fee and right he had counted, particularly inasmuch as our Lord the King demands an advowson of a fourth part of the tithes of the church of St. Dunstan, &c., which the said Prior holds as the advowson of a third part of the tithes of the church of Our Lady of the New Temple of the suburb aforesaid, as the right of his Hospital aforesaid, and puts himself on God and the Grand Jury, in lieu of the Grand Assise of our Lord the King, whether he has a greater right to hold that which our Lord the King demands as the advowson of a fourth part of the tithes which the aforesaid Prior holds as the advowson of a third part of the tithes, &c., as his right and the right of his Hospital aforesaid, as he holds it, or our Lord the King to have the advowson aforesaid which he demands as the advowson of the fourth part, &c., as his right, as he demands.—And the mise stood, and a Day of Grace was given at the request of the King's attorney.—And note that final judgment shall not be given against the King, but shall be given for him. And because the form is not that another person shall put himself on the Grand Assise when the King is demandant, the King shall not tender suit nor deraignment on a writ of Right, but it shall be said only that one is ready to aver the fact on the King's behalf.

Dower. (67.) § The Countess of Salisbury brought her writ of Dower against John Inge, who vouched to warrant William son and heir of William Montagu Earl of Salisbury; and process was made against him as against William son and heir of William "*de Monte acuto, Comes Sarum*," whereas in the voucher the

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Dieux garde, de qi seisine il ad counte come de fee A.D 1346.
 et dreit, nomement de ceo qe nostre seignur le Roi
 demande une avowesoun de la qarte partie des dismes
 del eglise de Seint Dunstan, &c., quel le dit Prior
 tient come lavowesoun de la terce partie des dismes
 .del eglise de nostre Dame de Nouvelle Temple del
 suburbe avantdit, comme le dreit de soun Hospital
 avantdit, et soy mette en Dieux et la grant Jure, en
 lieu de grant Assise nostre seignur le Roi, [le] quel
 il ad meur dreit a tener ceo qe nostre seignur le
 Roi demande come lavowesoun de la quarte partie
 des dismes quel lavantdit Prior tient comme
 lavoesoun de la terce partie des dismes, &c., comme
 soun¹ dreit et le dreit de soun Hospital avantdit,
 sicomme il le tient, ou nostre seignur le Roi daver
 lavowesoun avantdit quele il demande comme
 lavowesoun de la quarte partie, &c., comme soun
 dreit, sicomme il demande.—Et la mise estut, et
 jour de grace done a la requeste lattourne le Roi.
 —*Et nota* qe jugement final² se fra pas countre le
 Roy, mes pur luy serra. Et pur ceo qe la fourme
 nest pas qautre persone soy mettra en grande Assise
 ou le Roi demande, ne le Roi ne tendra pas en
 brief de Dreit suite, ne deren,³ mes soulement prest
 daverer le pur le Roy.⁴

(67.)⁵ § La Countesse de Salebirs porta soun brief de Dowere.
 Dowere vers Johan Inge, qe voucha a garrant William [Fitz.,
 fitz et heir William Mountagu Counte de Salebirs; Discon-
 et proces fut fait vers luy come vers William fitz et tinuans
 heir William *de Monte acuto, Comes*⁶ *Sarum*, la ou en divers. 7.]

¹ C., sur.² C., fynalle.³ L., drein pas.⁴ See further Y.B., Mich., 20
Edw. III., No 116.⁵ From H., and I., until otherwise
stated. The report is in continua-tion of Y.B., Mich., 19 Edw. III.,
No. 74, the record being *Placita de
Banco*. Mich., 19 Edw. III., R^o 495.⁶ This is not in agreement with
the record See Y.B., Trin.Mich., 19 Edw. III., p. 457,
note 4.

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A.D. 1346. vouchee was not supposed to be Earl, but his father, as whose heir he was vouched.—*Sadelyngstanes*. You have here William, who tells you that he is under age, and that his lands are in the wardship of the King, and, because he is vouched as being out of wardship, we demand judgment of this voucher. And. *Sadelyngstanes* produced a writ from the Chancery by which the King recorded that, after the death of the vouchee's father, the lands were seized into the King's hand, and still remained there. — *Birton*. Although the King records that, after the death of the vouchee's father, the lands were seized into his hand, we will aver that at the time of the voucher his lands were not in the King's wardship. And if, Sir, after the death of William the father, the son had entered and held the land two or three years, although after the King had seized the land the vouchee would have had to answer to the King for the issues, still, if we vouched at a time at which he held the land himself, no default can be adjudged in us, because it was not for us to be aware of the right which the King had to seize. — *WILLOUGHBY*. The King testifies the reverse of that of which you tender averment; therefore against that testification you will not be allowed to say the contrary; therefore see whether you have anything else to say. — *Sadelyngstanes*. Sir, William de Montagu was vouched, and process was made against William de *Monte acuto*; and, moreover, in the process he is made Earl, and in the voucher his father is so made, and not he, and so this process is discontinued; therefore on this process you cannot render any judgment. — And because *Monte acuto* was Latin, and Montagu was the equivalent in French, and also notwithstanding the other variance with regard to the description of Earl, they adjudged the process good. — *Birton*. We pray that the vouchee who

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le voucher le vouche ne fut pas suppose Counte, mes A.D. 1346. son pere, come qi heir il fut vouche.—*Sadel*. Vous avetz ycy William, qe vous dit qil est deinz age, et ses terres en la garde le Roi, et de ceo qil est vouche hors de garde nous demandoms jugement de ceo voucher. Et mist avant brief de la Chauncellerie par quel le Roi recorda qe, apres la mort son pere, les terres furent seisis en sa mayn, et unqore sunt.¹—*Birtone*. Coment qe le Roi recorde qe, apres la mort son pere, les terres furent seisis en sa mayn, nous voloms averer qe al temps de voucher ses terres ne furent pas en la garde le Roi. Et, Sire, si apres la mort W. le pere, le fitz ust entre et tenu la terre ij aunz ou iij, coment qe apres qe le Roi leit seisi il respoundra des issues al Roi, unqore, si nous vouchames en temps qil tient la terre mesme, nul defaute put estre ajuge en nous, qar il ne fut pas a nous a conustre le dreit qe le Roi avoit a seisir.—*Wilby*. Le Roi tesmoigne le revers de ceo qe vous tendez daverer; par quei encountre cel tesmoignance naveretz pas a dire le contraire; par quei veietz si vous eietz autre chose a dire.—*Sadel*.² Sire, William de Mountagu fut vouche, et proces est fait vers William de *Monte acuto*; et auxi en le proces est il fait Counte, et en le voucher son pere, et nent lui, et issi ceste proces discontinue; par quei sur ceste proces ne poetz nul jugement rendre.—Et pur ceo qe *Monte acuto* fut Latine, et lautre Fraunceys, et auxi nent coudre-esteant lautre variaunce del noun de Counte ils ajuggerent le proces bon.—*Birtone*. Nous prioms qe le vouche soit demande qe respond par

¹ This agrees with the record.
See Y.B., as above.

² MSS. of Y.B., *Birtone*.

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A.D. 1346. answers by guardian be called.—And in the warrant of the guardian the words “son and heir” were omitted, whereas the vouchee was vouched as son and heir.—*Birton*. Sir, you have not now here any party who can counterplead this warranty, and therefore we pray process against the vouchee since the warrant does not agree with our voucher.—*SHARSHULLE*. It is not in the case of warrant of a guardian the same as in the case of a warrant of attorney: for a person of full age who appoints an attorney has to appoint him at his own peril; but a guardian for one who is under age is allowed by the Court, and, in case the words are not in agreement with that which they ought to be, the default is in the Court, and shall be redressed by the Court, and shall not be to the damage of the infant as if he were of age.—Therefore the Court caused the warrant of the guardian to be amended so as to be in accordance with the voucher.—And afterwards *WILLOUGHBY* gave judgment, because it was of record that the lands were in the King’s wardship at the time of the voucher, and the heir was vouched as being out of wardship, and therefore the voucher failed, that the demandant should therefore recover her dower against the tenant, and that the vouchee should be quit of the warranty, &c.

Dower. § The Countess of Salisbury heretofore brought a writ of Dower against John Inge, who vouched William son and heir of William de Montagu Earl of Salisbury, then under age, as being out of wardship of anyone. And process was made against him as son and heir of William—“*filius et heres Willelmi de Monte acuto nuper Comes Sarum.*” And discontinuance was alleged by reason of the diversity of surname. But because the meaning of de Montagu is the same as that of *de Monte acuto*, and also because a writ came to proceed notwithstanding the

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gardeyn.—Et en la garrant del gardeyn fitz et heir A.D. 1346.
 fut entrelesse, la ou il fut en tiele manere vouche. [Fitz.,
 —*Birtone*. Sire, ore navetz pas partie qe purra ceste *Amende-*
 garrantie countrepleder, par quei nous prioms proces *ment, 66.*¹
 vers luy puis qe le garrant nacorde pas a nostre
 voucher.—*SCHARS*. Il nest pas issi de garrant de
 gardeyn come dattourne; qar homme de pleine age
 qe fait attourne il le fra mesme a soun peril; mes
 gardeyn pur un deinz age est graunte par Court,
 et, en cas qil ne soit pas acordaunt a ceo qe il
 dust estre, la defaute est en Court qe serra par
 Court redresse, et ne mye en damage del enfant
 come sil fut dage.—Par quei la Court fist amendre
 la garrant del gardeyn acordaunt al voucher.—Et
 puis *WILBY*. agarda, pur ceo qil fut de record qe
 ses terres furent adonques en la garde le Roi, et il
 fut vouche come hors de garde, et par taunt failli
 de son voucher, par quei la demandante recoverast
 son dowere vers le tenant, et le vouche quite de la
 garrantie, &c.

§ La² Countesse de Sarum autrefoith porta brief *Dowere*.
 de Dowere vers Johan Inge, qe voucha W. fitz et heir
 W. de Mountagu Count de Sarum, deinz age, hors de
 chesqun garde. Et proces fuit fait vers luy come fitz
 et heir W.—*filius et heres Willelmi de Monte acuto*
nuper² Comes³ Sarum. Et discontinuance fuit allegge
 pur la diversite de surnoun. Pur ceo qe cest dun
 mesme entendement et lun et lautre, et auxint brief
 vint *non obstante variatione illa quod procedatis, &c.*,

¹ In Fitzherbert's *Abridgment*
 the note is placed in Michaelmas
 Term, 19 Edw. III.

² This report of the case is from
 L., and C.

³ Sic in MSS. of Y.B.

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A.D. 1346. variance, the process was adjudged to be good ; therefore, &c.—HILLARY. We find in the roll that heretofore the vouchee took exception to this voucher on the ground that he was in the King's wardship, and was vouched as being out of wardship, to which it was replied that on the day of the voucher he was out of the wardship of anyone, and thereupon the vouchee produced a writ recording that he was in wardship. And, because the writ did not testify that he had been in wardship the whole time since the death of his ancestor, it appeared that the writ did not oust the tenant from the averment, and therefore the vouchee sued another writ reciting that he had been in wardship the whole time since the death of his ancestor, and it assigned in particular that on the day of his ancestor's death he was in the wardship of the King, and so the King's writ and his record ousted the tenant from the averment that the vouchee was out of the wardship of anyone, &c.—Birton. That does not seem to be so, for even though it be the fact that the King is in law seised of the wardship during the whole time, because he is answered as to the issues during the whole time, nevertheless a stranger who has to vouch cannot know the fact except by some outward sign, that is to say, when the King is seised in fact, and therefore the writ does not oust from the averment.—Nevertheless WILLOUGHBY awarded seisin, &c.

Annuity. (68.) § A Prior brought a writ of Annuity against a vicar, and counted, by *Mutlow*, that, on the appropriation of the church which the Prior's predecessor made, and on the ordinance touching the vicarage, the Ordinary ordained that there should be a certain portion of the tithes for the vicarage, and that for those tithes the vicar should pay to the Prior's predecessor and his successors

No. 68.

si fuit le proces agarde boun; par qai, &c.—HILL. A.D. 1346.
 Nous trovoms en roulle gautrefoith le vouche
 chalengea ceo voucher pur ceo qil fuit en la garde
 le Roi, et fuit vouche hors de garde, a qai fuit
 replie qe jour de voucher il fuit hors de chesquny
 garde, et sur ceo le vouche mist avant brief
 recordant¹ qil estoit en garde. Et, pur ceo qe ceo
 ne tesmoigna pas qe de tut temps puis la mort
 soun auncestre il fuit en garde, si sembloit qe le
 brief ne ousta pas le tenant del averement, par
 qai apres il suyt autre brief reherceaunt qe de tut
 temps puis la mort soun auncestre, et assigna qe al
 jour del moriaunt soun auncestre en certain il fuit
 en garde le Roi, et issint le brief le Roi et soun
 recorde ouste le tenant del averement qe hors de
 chesquny garde, &c.—*Birtone*. Ceo ne semble il pas,
 qar, tut soit il qe le Roy en ley est tut temps seisi
 de la garde, pur ceo qil est respondu des issues de
 tut temps, nepurquant estraunge persone qest a
 voucher ne poet conustre fors le fait dehors, saver,
 quant le Roi seisi en fait, par qai par le brief nest
 pas ouste del averement.—*Non obstante*, WILBY.
 agarda seisine, &c.

(68.)² § Un Prior porta brief Dannuite vers un Annuite.
 Vikere, et counta, par *Muth.*, qe sur lappropriacion
 del eglise qe le predecessour le Priour fist,³ et sur
 lordinaunce de la vicare, Lordiner ordina⁴ un certain
 porcion de dismes a la vicare, et pur ceux dismes le
 vikere paiereit a son predecessour et a ses successours

¹ recordant is omitted from L.

² From H., and I. The report is in continuation of Y.B., Hilary, 20 Edw. III., No. 16 (the Prior of Coventry v. John de Holand, vicar of the church of the Holy Trinity of Coventry). See above, pp.66-72. The record there cited is *Placita de Banco*, Hil., 20 Edw. III., R^o 107, d.

³ fut is omitted from I.

⁴ I., ordeyna.

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A.D. 1346. this annuity, of which annuity that predecessor and the Prior's other predecessors were seised until six months before the purchase of the writ.—*Grene*. We tell you that neither the person whom you suppose to have been a party to the ordinance nor your other predecessors were seised as you have counted; ready, &c.—*Mutlow*. Ready, &c., that our predecessor who was a party to the ordinance was seised; therefore we have no need to answer as to the non-seisin of the others.—*Thorpe*. And we demand judgment since the seisin of all is supposed by your count, and we have traversed those seisins, and you reply in maintenance of one only, and not of the others, and so the others are traversed by us, and our traverse is not denied by you, and therefore the contrary of your count must be held as not denied by you, and therefore we demand judgment of the count.—*WILLOUGHBY*. Then you refuse the averment which he tenders to you touching the seisin of his predecessor who was a party to the ordinance; and even though he had in his count spoken only of that seisin it would be sufficient for him; therefore it is sufficient for him to maintain that seisin.—*Thorpe*. Sir, even though he might have maintained his count by one seisin, yet, since he has assigned divers seisins, he must maintain the whole of them, and otherwise he has wrongly taken his count, and that is his own fault.—*SHARSHULLE*. You have said that his predecessors were not seised, and he says that one was seised, and therefore you are at a traverse on his seisin; therefore we shall take the issue on that point touching the seisin, without having regard to the others.—And so he did.

Deceit.

(69.) § A husband and his wife lost by default what was right of the wife; and after the husband's death the wife prayed a writ of Deceit.—

No. 69.

ceste annuite, de quele annuite cel predecessour fut A.D. 1346. seisi et ses autres predecessours tanqe vj. moys avant le brief purchace.—*Grene*. Nous vous dioms qe celi qe vous supposez estre partie al ordinaunce ne voz autres predecessours ne furent pas seisis come vous avietz counte; prest, &c.—*Mutl*. Qe nostre predecessour qe fut partie al ordinaunce fut seisi, prest, &c.; par quei a la noun seisine des autres nous navoms mester a respondre.—*Thorpe*. Et nous demandoms jugement puis qe la seisine de touz est suppose par vostre counte, queux seisines nous avoms traverse, et vous repliez en meintenance dun, et ne mye des autres, et issi les autres sont traversez par nous et ne sont pas dedit de vous, et par taunt le contraire de vostre counte tenu a nent dedit de vous, par quei nous demandoms jugement de counte.—*Wilby*. Donques vous refusetz laverement qil vous tend de la seisine son predecessour qe fut partie al ordinaunce; et mesqil en son counte nust parle mes de la seisine il li suffireit; par quei cele seisine luy suffit a meintener.—*Thorpe*. Sire, mesqil poait aver, meintenu son counte par une seisine, puis qe il ad done divers, il covient qil meinteigne trestouz, et autrement il ad mespris son counte, qe cest sa defaute demene.—*Schars*. Vous avetz dit qe ses predecessours ne furent pas seisis, et il dit qun fut seisi, et par taunt sur sa seisine vous estes a travers; par quei nous prendrons issue sur cel point, sanz aver regard as autres, de la seisine.—*Et ita fecit.*¹

(69.)² § Le baron et sa femme perdirent par Deceite defaute le dreit sa femme; et apres la mort ^{[Fitz.,} le baron la femme pria brief de Deceite. — 4.] _{Disceit,}

¹ With regard to the joinder of | on the roll, *see above*, p. 71, note 8.
issue, and the conclusion of the case | ² From H., and I.

Nos. 70, 71.

A.D. 1346. WILLOUGHBY. You can have a *Cui in vita*; and I have seen, in a case in which husband and wife who held for their lives lost by default, that after the husband's death the wife could not maintain a *Quod ei deforceat*, because she ought to have a *Cui in vita*; and so also in this case.—HILLARY. At common law, when husband and wife lost by default, the wife could have only a writ of Right, and the *Cui in vita* is given in place of that; and since the *Cui in vita* is given in place of a writ of Right at common law, even though I can have that writ, the fact will not deprive me of the writ of Deceit; and, moreover, on a *Cui in vita* she would have to affirm that the judgment was given against her husband and her by due process, which is contrary to this suit; therefore let her have the writ of Deceit.

Statute
merchant:
re-extent. (70.) § *Grene* came to the bar, and showed how one J. had sued execution on a statute merchant, and how the lands of his client which were, with regard to the receiver of the issues, extended at ten marks, were in fact of the value of one hundred marks, and how the extent was returned, and prayed a writ to re-extend the land.—WILLOUGHBY. You cannot have it: for, as soon as he has levied the money and his costs, you will be able to maintain your writ of Account against him to have your land back, notwithstanding this extent; therefore you are not put to any mischief.—Therefore he could not have the re-extent.

Appeal. (71.) § One J. sued a writ of Appeal against A., B., C., D., and E., who alleged that he ought not to be answered because he had been outlawed in the same Court. And the roll was fetched, and read, and it purported that heretofore J. had been indicted because he was supposed to have committed

Nos. 70, 71.

WILBY. Vous poetz aver un *Cui in vita*; et jay veu A.D. 1346.
la ou le baron et sa femme qe tindrent a lour vies
perdirent par defaute qe apres la mort le baron la
femme ne pout meyntenir *Quod ei deforceat*, pur ceo
qe le dust aver un *Cui in vita*; et auxi en ceo cas.
—HILL. A la comune lei, la ou le baron et sa femme
perdirent par defaute, la femme avereit mes un
brief de Dreit, et en lieu de ceo est le *Cui in vita*
done; et depuis qe le *Cui in vita* est done en lieu
dun brief de Dreit a la comune ley, et mesqe jeo
puisse aver cel brief, ceo ne moy¹ toudra pas un
brief de Deceite; et auxi en le *Cui in vita* ele
affermara le jugement taille vers son baroun et lui
par deue proces, qest a contrare de ceste sute; par
quei, &c.

(70.)² § *Grene* vint a la barre, et moustra coment
un J. avoit suy execucion hors dun estatut, et les
terres son client qe furent al resceivour estenduz a
x. marcs, la ou ils vaillent c. marcs, quel estent fut
retourne, et pria brief de reestendre la terre.—WILBY.
Vous nel averetz pas: qar, quel houre qil eit leve
les deners et ses custages, vous meintendrez vostre
brief Dacompte vers luy pur reaver vostre terre,
nent countreesteant cele estente; par quei vous
nestes pas a meschief.—Par quei il nel pout aver, &c.

(71.)⁵ § Un J. suyst un brief Dappel vers A., B., Appel.
C., D., et E., qe alleggerent qil ne dust estre respondu
pur ceo qil fut utlage en mesme la place. Et le
roulle quis et lieu, qe voleit qe autrefoitz J. fut
endite qil dust aver fait assaut a un H., et fist

¹ moy is omitted from I.

² From H., and I.

³ The words *Estatut marchant*
are from I. alone.

⁴ re-estente is from H. alone.

⁵ From H., and I., until other-
wise stated.

Estatut
mar-
chant; ³
re-es-
tente.⁴
[*Fitz.*,
Extent,
18]

[*Fitz.*,
Chartre,
11; *Office*
del Court,
23.]

No. 71.

A.D. 1346. an assault on one H., and caused this H. to be taken, together with his cart and ten oxen, and kept imprisoned for three days until this same H. had paid him a fine of half a mark to save his life, and have deliverance, and on that indictment, in the words of the roll, *ad sectam Regis utlagatus fuit causa prædicta*. And thereupon the plaintiff had leave to imparl, and afterwards came back into Court and produced the King's charter of pardon of the outlawry with the clause *ita quod stet recto nobis de transgressionem prædictam responsurus, &c.*—Grene, for all the defendants. When the charter was granted to you, you found mainprise to appear on a certain day before the Justices, *stando recto*, so that the charter was granted to you on that condition, and you do not show that you are acquitted of that trespass at the King's suit, and you do not show how you have observed the condition mentioned in your charter, either by paying a fine, or in any other manner, without which the charter cannot be of any avail; judgment whether you ought yet to be answered.—And it was said that in all such cases of charters granted they are void if there is a failure in the observance of the condition, as appears by the statute.¹—And afterwards Grene passed over, and said on behalf of A., who was appealed as principal, "We say Not Guilty." And for B. he alleged that on a previous occasion the plaintiff had sued a like writ of Appeal against them, on which writ they alleged this outlawry by reason of which he ought not to be answered, and the plaintiff was then questioned on this matter by the Court, and he then said that he could not say anything in contradiction of the outlawry, for which reason judgment was given that they should go quit; therefore (said

¹ 5 Edw. III., c. 12.

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arestre celi H. et sa charette od x. boefs a demurer A.D. 1346. pur iij jours tanqe mesme celi H. luy avoit fait fin dun demi marc pur salvacion de sa vie et la deliveraunce aver, et sur lenditement *ad sectam Regis utlagatus fuit causa prædicta*. Et sur ceo le pleintif avoit counge denparler, et puis revint et moustra chartre le Roi del utlagere perdone, *ita quod stet recto nobis de transgressionem prædicta responsurus*, &c. — Grene, pur touz les defendants. Quant la chartre vous fut graunte vous trovastes meinprise destre a certain jour devant les Justices, *stando recto*, issint sur cele condicion la chartre vous fut graunte, et vous ne moustrez pas qe vous estes acquite de cel trespas a la sute le Roi, ne par fine faire ne en autre manere ne moustrez coment vous avetz servi la condicion mote en vostre chartre, saunz quel la chartre ne poet estre de force; jugement si unquore devez estre respondu.—Et dit fut qen touz tielx cas des chartres grauntes qils sont voides si la condicion faille, *ut patet per statutum*.—Et puis Grene passa outre, et dit pur A. qest appelle de principal:—Nous dioms *Non culpabilis*. [Et pur B. il alleggea qe autrefoitz le pleintif avoit suy autiel brief Dapel vers eux, a quel brief ils alleggerent cel utlagere]¹ qil ne dust estre respondu, et donques il fut appose de cele par la Court, et il dit qe il ne savoit rienz dire encountre Lutlagere, par quei fust agarde qils alerent quites; par quei jugement, &c. Et pur

¹ The words between brackets are omitted from I.

No. 71.

A.D. 1346. *Grene*) judgment. And for C., the fourth, he said:— You see plainly how the plaintiff's object is to recover damages by this writ, and that although he has confessed that he was outlawed after the commencement of the first writ of Appeal, by which outlawry every personal action for the recovery of damages was extinguished; judgment, &c. And as to D. and E. he abode judgment on the first exception as to whether the plaintiff ought to be answered.— And as to that exception the appellor said that he had paid his fine at the time at which his charter of pardon was first allowed, and this was found to be so by the roll, and he therefore demanded judgment against the appellees.—*Thorpe*. Then we say for D. and E., Not Guilty.—*Sadelyngstanes*. As to A., he is guilty; ready, &c.—With regard to B., the record was read, and it was found, as above, that the plaintiff said that he could not say anything in contradiction of the outlawry, and that, in the words of the roll, *postea appellator subito se subtraxit*; and judgment was then given that the defendants should go without day, and that the appellor should be taken. And according to the intendment of the Court it was because of the outlawry, and not because of the nonsuit, that the pledges to prosecute were not amerced. On this *Sadelyngstanes* demanded judgment, since *Grene* alleged that they went quit, whereas the record was to no other effect than that they should go without day, because (said *Sadelyngstanes*) we were not then in a condition to be answered, which reason has now come to an end, and so the reverse of *Grene's* answer is found.—And as to C., the fourth, *Sadelyngstanes* said that this outlawry arose out of a simple trespass, and that could not toll this action of Appeal, which is of a higher nature; judgment, &c.—*Thorpe* said that, because the pleas in law extended to the discharge of those who had pleaded to a jury on

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., le quarte, il dit:—Vous veietz bien coment il est A.D. 1346.

recoverir damages par cest brief et coment il soi
d conu qil estoit utlage puis le primer brief Dappel
omence, par quel chesqun accion personel de
ecoverir damages fut esteint; jugement, &c. Et
uant a D. et E. il demura sur la primere excepcion
il dust estre respondu. Et quant a cel chalange
ppellour dit qil avoit fait sa fin al heure qe sa
hartre estoit primes allowe, et ceo fust issi trove
ar roulle, par quei il demanda jugement vers
eux.—*Thorpe*. Donques dioms pur D. et E., *Non*
ulpabiles.—*Sadel*. Quant a A., coupable, prest, &c.—
uant a B. le recorde fut lieu,¹ et trove fut, *ut supra*,
il dit qe il ne savoit rienz dire countre lutlagere,
et postea appellator subito se subtraxit; et agarde fut
e les defendants allassent saunz jour, et qe
appellour fut pris. Et al entent de Court ceo fut
ur lutlagere et noun pas pur le nounsute qe ses
legges ne furent pas amercies. De quei *Sadel*.
emanda jugement, del heure qil alleggea qils alerent
uites, ou le record nest pas autre mes qils alerent
aunz jour, pur ceo qe nous nestoions mye responsable
donques, quele cause ore cesse, et issi le revers de
on respons est trove.—Et quant a C., le quarte, il
it qe cele utlagere surdi dun simple trespas qe ne
oet tollir ceste accion Dappel, qest de plus haut
ature; jugement, &c.—*Thorpe* dit pur ceo qe les
lees en jugement² sestendent en descharge de
eux qount plede al enqueste auxi avant come

¹ H., lu.

² The words en jugement are
omitted from I.

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A.D 1346. the facts as much as to those who were abiding judgment, no *Venire facias* could therefore issue, unless those pleas in law were adjudged to be null, and further that if the principal were acquitted all those who had pleaded to judgment in law would go quit.—Therefore a day was given over.

Appeal. § An Appeal was sued against several persons. One of them alleged that the plaintiff was outlawed, and therefore ought not to be answered. The appellor showed that this outlawry was only on an indictment for Trespass, and produced a charter of pardon of outlawry. And they abode judgment whether the appellor should be answered as to this action taken at an earlier time than that of the outlawry. Another of the defendants pleaded Not Guilty. A third defendant pleaded that the plaintiff on a previous occasion brought against him a like writ, when he alleged outlawry against the plaintiff, which the plaintiff could not afterwards deny, and therefore judgment was given that this third defendant should go quit; judgment was therefore prayed, on behalf of this third defendant, whether the plaintiff ought to be answered as to this writ.—*Moubray*. The reason why the plaintiff was not answered on that previous occasion has now come to an end; therefore we pray judgment because the third defendant does not answer.—And so to judgment.—And the Court said that it would take the verdict of the jury before it gave judgment on that which had been pleaded in bar for the others.

Trespass with battery. (72.) § One A. sued a writ of Trespass with battery against B., C., D., E., and others. B. appeared, and pleaded Not Guilty. And afterwards in another term C. appeared, and pleaded in the same manner, and thereupon process was made until the Quinzaine of St. Hilary last passed, when the

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a ces qe sount en jugement, pur quei nul *Venire* A.D. 1346
facias issera, einz ceo qe ses plees soient ajugges pur
 nuls, et unqore si le principal soit acquite touz ceux
 qount plede en jugement irrount quites.—Par quei
 jour fut done outre.

§ Appelle¹ vers plusours. Un alleggea qe le pleintif Appelle.
 est utlage, par qai il ne deit estre respondu. Lautre
 moustra qe cele utlagerie fuit sur enditement de
 Trans, et moustra chartre de pardoun. Et sount en
 jugement si a ceste accion pris de temps plus haut
 qe nest pas utlagerie sil serra respondu. Quant a
 un autre, il pleda de rienz coupable. Et quant al
 terce pleda qautrefoith le pleintif porta vers luy
 autel brief, ou il alleggea utlagerie devers luy, quel
 apres il ne poet dedire, par qai il fut agarde qil
 alast quites; jugement si a cest brief serreit
 respondu.—*Moubray*. La cause pur qai il ne fuit
 pas respondu adonges cesse a ore; par qai nous
 prioms jugement de ceo qil ne respond pas.—*Et sic*
ad judicium.—Et Court dist² qil prendreit primes
 lenqueste avant qil ajuggeast ceo qest plede en
 barre pur les autres.

(72.)³ § Un A. suist un brief de Trespas de Trans de
 baterye vers B., C., D., et E., et autres. B. vint, et baterye.
 pleda *nil culpabilis*. Et puis en un autre terme C.
 vint, et pleda en mesme le manere, sur quei proces
 fust fait tanqe al quinzine de Seynt Hillare drein passe,

¹ This report of the case is from
 L., and C.

² dist is omitted from L.

³ From H., and I.

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A.D. 1346. *Distringas juratores* was returned with regard to the first panel; and with regard to the other the *Habeas corpora* was returned on the Morrow of the Purification. And then there was entered on the roll "*Jurata inter A. querentem et B. et C. defendentes ponitur in respectu nisi prius,*" &c. And on the day of the *Nisi prius* one jury was taken from the two panels, and it passed for the plaintiff with three hundred marks damages. And now on the day which they had in Court the plaintiff prayed judgment.—And *Skipwith*, for the defendants, alleged discontinuance as above, and he also raised another point—that on the same writ E., against whom an Exigent had issued, ought to have surrendered and found mainprise to appear in Court on the day on which the Exigent was returned, that is to say, on the Morrow of St. Martin, and the roll made mention that he surrendered at the Octaves of St. Martin, supposing the Exigent to be returnable then, and so it was proved that he did not surrender on his day, &c., and therefore his mainprise had failed, &c., upon which no process had been made, and therefore the defendant was without day.—Scor. As to the first exception we find the same names in one panel as in the other, and that on the day of *Nisi prius* one jury was taken for the whole, and so it is now to be adjudged as only one jury in law; therefore the continuance is good, as it seems.—*Skipwith*. Even though it be the fact that a jury which is elected from the two panels is only one jury in law, still when it was the fact that two panels were returned on different days with regard to two different pleas pleaded on different days, I say that two juries ought to have been put in respite, because, during the whole time before they were joined they were different juries, so that by the challenge of one defendant the inquest might have been delayed

No. 72.

qe le *Distringas juratores* fut retourne en droit del A.D. 1346. primer panel; et en droit del autre le *Habeas corpora* fut retourne in *Crastino Purificationis*. Et adonques fut entre en roulle *Jurata inter A. querentem et B. et C. defendentes ponitur in respectu nisi prius*, &c. Et al jour de *Nisi prius* un enqueste fut pris de les ij paneles, et passa pur le pleintif a damage de ccc. marcs. Et ore a jour qils avoient en Court le pleintif pria jugement.—Et *Skip.*, pur les defendants, alleggea la discontinuance *ut supra*, et auxi il parla autre point qe a mesme le brief E., vers qi lexicende estoit issu, soi dust aver rendu¹ et trove meinprise destre a jour en Court qe lexicende fut retourne, saver, in *Crastino Sancti Martini*, et le roulle fist mencion qil se rendist as utaves de Seynt Martyn, supposant lexicende estre retournable adonques, et issint est prove qe il ne soi rendi mye a soun jour, &c., par quei la meinprise failli, &c., de quei nul proces fut fait, et par taunt le defendant saunz jour.—Scor. Quant al primer chalenge nous trovoms mesmes les nouns en lun panel come en autre, et qe a jour de *Nisi prius* un enqueste est pris pur tut, issi nest ceo forsque come un enqueste en leye ajugge a ore; par quei la continuaunce est bone, *ut videtur*.—*Skip.* Mesqe issi soit qun enqueste [qe] soit eslieu² de les ij panels ne soit qun enqueste en lei, unqore, quant issi fut qe ij panels furent retournes a divers jours en ij divers plees pledes a divers jours, jeo die qe ij jurours duissent aver este mys en respit, qar tut temps devant le joindre ils furent divers jurours, issint qe par le chalenge del un defendant lenqueste put aver este.

¹ I., rendu a prisoun.| ² H., eslu.

No. 73.

A.D. 1346. with regard to him, and yet taken with regard to the other. — THORPE (JUSTICE). There is no more reason to discontinue one jury with regard to one party than with regard to the other; so, according to your statement, the whole would be discontinued, whereas the action of the party is clearly found by the verdict; and, moreover, some of the defendants are outlawed on this same writ, and have lost their chattels by forfeiture, and now the whole matter would be defeated, which would be hard.—*Skipwith*. It ought to be so, and the matter should be recommenced where the discontinuance commenced. —And so the judgment to be rendered is pending.

Error.

(73.) § Land was rendered to R. and to K. his wife in tail, with remainder to the heirs of the husband, in virtue of which render R. and K. were seized. From R. and K. there was issue one J.; from J. there was issue one F., who sued a *Scire facias* to have execution, "*coram Justiciariis de Banco*," against one A., who alleged that, "*post mortem predictorum R. et K.*," one J. entered as their son and heir in tail, and enfeoffed one F., &c., with warranty, to hold to him and his assigns, which F. enfeoffed A. (and A. produced a deed to that effect), and so the fine was executed, and A. demanded judgment. — The demandant alleged that the purport of the statute *De his que recordata sunt*¹ was that matters recorded should be put in execution by those to whom a fine limited an estate, without their being put to any other process in which there might be delay, and since A. had confessed the fine, &c., and had not affirmed any seisin in the person of the demandant, he demanded judgment. — And then the Court gave judgment that the demandant should take nothing by his writ,

¹ 13 Edw. I. (Westm. 2), c. 45.

No. 73.

delaie vers luy, et unquore pris vers lautre. — A.D. 1346.

THORPE, JUSTICE. Nent plus de cause y ad il a discontinuer lune jure vers lune partie qe vers lautre; issint, a vostre dit, tut serreit discontinue la ou laccion de partie est trove clere par verdit; et auxi asçuns des defendants a mesme cesti brief sont utlages, et perdu lour chateux par forfeiture, et ore serra tut defait, qe serra dure.—*Skip*. Issi covient estre, et recomencer la ou la discontinuance comencea.—*Et sic pendet judicium reddendum*.

(79.)¹ § Terre fut rendue a R. et a K. sa femme Errour.
en la taille, le remeindre a les heirs le baron, par [Fitz.,
quel rendre ils furent seisis. De R. et K. issit un Scire.
J.; de luy issit un F., qe suist un Scire facias, 124.]
daver execucion, *coram Justiciariis de Banco*, vers un
A., qe alleggea qe *post mortem prædictorum* R. et K.
qun J. entra come lour fitz et heir en la taille, et
enfeffa un F., &c., od garrantie, a lui et a ses
assignes, le quel lui enfeffa—et moustra fait;—issi la
fine execut; jugement.—Le demandant alleggea
lestatut *De his quæ recordata sunt* qils serront mys
en execucion par ces a queux la fyne taille estat,
saunz estre mys a autre proces ou delaie poet
estre, et de puis qil avoit conu la fine, &c., et
nulle seisine navoit afferme en la persone le
demandant, il demanda jugement.—Et puis la
Cour agarda qil ne prist rienz par soun brief,

¹ From H., and I.

Nos. 74, 75.

A.D. 1346. "*sed quod tenens eat sine die, et quod potuit sibi querere breve originale, si sibi viderit expedire,*" on which the warranty might be saved to the tenant.—On this a writ of Error was sued in the King's Bench, and there the judgment was afterwards affirmed as good, &c.

Assise of
Novel
Disseisin.

(74.) § An Assise was brought by two persons against two persons, in which one of the defendants alleged joint tenancy by a charter, and process was made thereon, and it was then found that he was sole tenant, and therefore the assise was charged as to whether the other person named in the writ was a disseisor or not. And they said that he was a disseisor, and that with force and arms. Therefore, without enquiry having been made respecting the one who had alleged joint tenancy, judgment was given that the plaintiff should recover his double damages, that is to say, four hundred marks, against the two, and they were committed to prison.—And now one of the plaintiffs sued a *Scire facias* to have execution of the whole of the damages against both the defendants in common, because the damages were not apportioned.—Therefore exception was taken, and also because enquiry had not been made touching the one who alleged joint tenancy as to whether he was a disseisor or not.—And afterwards exception was taken to the writ of *Scire facias* because the name of the other plaintiff was omitted.—*R. Thorpe*. He is dead; ready.—But because the writ ought to have supposed him to be dead, and did not, it was therefore quashed, &c.

Ejectment
from
wardship.

(75.) § Note that on a writ of Ejectment from

Nos. 74, 75.

sed quod tenens eat sine die, et quod potuit sibi A.D. 1846.
querere breve originale, si sibi viderit expedire, en
 quei la garrantie puisse estre salve al tenant.—Sur
 quei brief Derroure fuist suy en Baunk le Roi, et puis
 illoeqes fut afferme pur bon jugement, &c.

(74.)¹ Une Assise fut porte par ij vers ij, ou lun Assise de
 alleggea jointenance par chartre, et sur ceo proces novele
 fait, et puis il fut trove soul tenant, par quei lassise disseisine.
 fut charge si lautre nome en le brief fut disseisour [Fitz.,
 ou noun. Et ils disoient qe si fut, et ceo ri et Assise,
armis. Par quei, saunz enquere de celi qe alleggea 121.]
 la jointenance, agarde fut qe le pleintif recoverast
 ses damages a double vers les ij, saver, de cccc.
 marcs, et eux a la prisone.—Et ore lun pleintif²
 suist *Scire facias* pur execucion aver³ des damages
 del entere vers lun et lautre en comune, qar les
 damages ne furent pas apporciones.—*Ideo* chalange,
 et auxi de ceo⁴ qil nestoit mye enquis de celi qe
 alleggea la joyntenance sil fut disseisour ou noun.
 —Et puis le brief fut chalange qar lautre fut
 entreleesse.—*R. Thorpe*. Il est mort; prest.—*Sed quia*
 le brief lui⁵ duist aver suppose mort, et *non fecit*,
ideo quassatur, &c.

(75.)⁶ § *Nota* qen brief Dengettement porte vers Engette-
 ment.

¹ From H., and I.

² The words lun pleintif are omitted from I.

³ aver is omitted from I.

⁴ The words de ceo are omitted from I.

⁵ lui is omitted from I.

⁶ From L., and C. The record appears to be that found among the *Placita de Banco*, Easter, 20 Edw. III., R^o 2, d. The action was brought by the Abbot of Selby against Thomas de Fencotes, and Walter Yole, in respect of ejectment from the wardship of the manor of

Kelfield (Yorks) by the two above-named defendants together with Nicholas Ward of Bubwith, the heir being Henry son and heir of Joan late wife of Conan de Kelkefelde. "Et Nicholaus venit "et alii non veniunt. Et præcep- "tum fuit Vicecomiti quod dis- "tringeret prædictum Walterum, " &c., et sicut prius quod dis- "tringeret præfatum Thomam, " &c., et etiam quod proclamationem " faceret quod iidem Thomas et " Nicholaus essent [originally only " idem Thomas esset, but altered

A.D. 1346. Wardship brought against three persons the Proclamations was returned with regard to one, and he was called in Court, and appeared. And the plaintiff wished to count against him, but the Court would not permit this until the others had appeared.

Quare impedit.

(76.) § The King brought a *Quare impedit* against the Abbot of Ramsey, counting that in the time of the King's grandfather one A.,¹ then Abbot, the Abbot's predecessor, presented, and that by reason of the death of A. the temporalities came into the hand of the King's grandfather, at which time the church became vacant. And he made the descent of the right of presentation to the present King.—*Pole*. It is quite

¹ For the real name, see p. 443, note 3.

No. 76.

iiij la Proclamation fuit retourne vers ¹ un, et il fuit A.D. 1346. demande en Court, et vint. Et le pleintif voleit aver counte devers luy, et COURT luy volleit nient soeffrere tanqe les autres venissent.

(76.)² § Le Roi porta *Quare impedit* vers Labbe *Quare impedit.* de Rameseye, countant qen temps laiel un A. Abbe, soun predecessour, presenta, et par la mort A. les temporaltes devyndreint en la mein le Roi laiel, a quel temps leglise se voida. Et fist descente del presentement au Roi qore est.³—*Pole.* Bien est

“ by erasure and interlineation]
 “ hic, &c., si, &c. Et Vicecomes
 “ modo mandat quod idem
 “ Walterus nihil habet, &c. Et
 “ testatum est hic quod satis habet
 “ in eodem comitatu, &c. Et quo
 “ ad proclamationem faciendam de
 “ prædicto Thoma et Nicholao
 “ [‘et Nicholao’ interlined], &c.,
 “ mandat quod proclamationem
 “ fecit, &c., quod iidem Nicholaus
 “ et Thomas essent hic ad hunc
 “ diem, &c., si, &c. Et quo ad dis-
 “ tringendum prædictum Thomam,
 “ &c., mandat Vicecomes quod
 “ præcepit Willelmo de Routhe.
 “ ballivo libertatis de Richemunde,
 “ qui nihil inde fecit. Ideo præ-
 “ ceptum est Vicecomiti quod non
 “ omittat, &c., quin distringat præ-
 “ dictum Thomam, &c., et sicut
 “ prius quod distringat præ-
 “ dictum [sic] et Walterum per
 “ omnes terras, &c., et quod de exi-
 “ tibus, &c., et quod habeat corpora
 “ eorum hic in Octabis Sancti
 “ Michaelis, &c., et quod in tribus
 “ plenis Comitatus publice pro-
 “ clamari faciat quod prædicti
 “ Thomas et Walterus veniant hic
 “ ad præfatum terminum præfato
 “ Abbati inde responsuri, si, &c.
 “ Idem dies datus est prædicto

“ Nicholao per attornatum suum
 “ hic in Banco, &c. Et idem
 “ Nicholaus in misericordia quia
 “ venit per magnam districtiorem
 “ et proclamationem ei inde factam,
 “ &c.”

¹ C., devers.

² From L., and C., but corrected by the record, *Placita de Banco*, Easter, 20 Edw. III., R^o 252. It there appears that the action was brought by the King against the Abbot of Ramsey, in respect of a presentation to the church of Hoghtone (Houghton, Hunts)

³ The declaration was, according to the record, “ quod quidam
 “ Willelmus de Gormoncestre,
 “ quondam Abbas de Ramesey,
 “ prædecessor Abbatis nunc, fuit
 “ seisitus de advocacione ecclesie
 “ prædictæ, ut de jure ecclesie sue
 “ beatæ Mariæ de Ramesey, . . .
 “ tempore Edwardi Regis avi
 “ domini Regis nunc, qui ad eandem
 “ ecclesiam de Hoghtone præsen-
 “ tavit quendam Rogerum de
 “ Seytone, clericum suum, qui
 “ ad præsentationem suam fuit
 “ admissus et institutus, . . .
 “ post cujus mortem prædicta
 “ ecclesia vacavit et vacans fuit
 “ quousque temporalia Abbatis

No. 76.

A. D. 1346. true that our predecessor presented, and that the church became vacant as above, and we tell you that the King, by reason of this vacancy, presented one J.,¹ who was admitted, &c., on his presentation, and is parson imparsonee, and the King has ratified the estate of the same parson for his life by this patent, and we do not understand that our Lord the King can attach disturbance in our person.—*Grene*. Then you

¹ For the real name, see p. 445, note 2.

No. 76.

verite qe nostre predecessour presenta, et qe leglise A.D. 1346.
se voida *ut supra*, et vous dioms qe le Roi, par
cause de cele voidaunce, presenta un, J., qe a soun
presentement fuit resceu, &c., et est ¹ persone
enpersone, et lestat mesme la persone par cest
patent ad ratifie pur sa vie, et nentendoms pas qe
nostre seignour le Roy destourbaunce en nostre
persone puisse attacher.²—*Grene*. Donques conissetz

“prædictæ devenerunt in manum
“prædicti Edwardi Regis avi, &c.,
“per quod jus præsentandi ad
“eandem accrevit eidem Edwardo
“Regi avo, &c. [The descent is
“then traced from Edw. I. to
“Edw. III.] Et ea ratione ad
“ipsum dominum regem nunc
“pertinet ad ecclesiam prædictam
“præsentare, prædictus Abbas
“ipsum injuste impedit, &c.”

¹ The words *et est* are omitted
from C.

² The plea on behalf of the Abbot
was, according to the record,
“Bene cognoscit seisinam præfati
“Willelmi de Gurmoncestre,
“quondam Abbatis, de advoca-
“tione prædicta, et quod prædictus
“Rogerus de Seytone fuit admissus
“et institutus in ecclesia prædicta
“ad præsentationem ejusdem
“Willelmi, et quod eadem ecclesia
“vacans fuit post mortem ejusdem
“Rogeri tempore quo temporalia
“Abbatie prædictæ devenerunt
“in manum prædicti domini
“Edwardi Regis avi, &c., Sed
“dicit quod de eadem vacatione
“ecclesiæ prædictæ dominus Rex
“nunc præsentavit ad eandem
“ecclesiam quendam Ricardum de
“Scarle, clericum suum, qui ad
“præsentationem suam fuit
“admissus et institutus in ecclesia
“prædicta, et adhuc est persona

“impersonata in eadem, qui
“quidem dominus Rex nunc post-
“modum, volens securitati prædicti
“Ricardi ne super possessione sua
“ecclesiæ illius futuris temporibus
“impetiatur providere, statum
“quem idem Ricardus ad præsen-
“tationem ejusdem domini Regis
“habet in eadem per literas suas
“patentes accepit, ratificavit, et
“approbavit, nolens quod præ-
“dictus Ricardus super possessione
“sua prædicta ecclesiæ illius,
“ratione alicujus juris quod ipsi
“domino Regi competit, seu com-
“petere poterit ratione vacationis
“Abbatie de Rameseye prædictæ,
“seu temporalium ejusdem in
“manu ejusdem Regis seu pro-
“genitorum suorum quondam
“Regum Angliæ existentium, seu
“quacumque alia de causa, per
“ipsum Regem, vel heredes suos
“seu ministros suos quoscumque
“occasionetur, molestetur, seu
“gravetur. Et profert hic, &c..
“prædictas literas domini Regis
“patentes quæ hoc testantur. Et
“dicit quod jus domini Regis sibi
“competens de prædicta vacatione
“ecclesiæ supradictæ sic in omni-
“bus est executum, absque aliquo
“impedimento per ipsum Abbatem
“inde domino Regi facto, salvo
“jure suo præsentandi ad eandem
“ecclesiam in proxima vacatione,

No. 77.

A.D. 1346. confess the King's title.—*Pole*. Saving to us our right of patronage to present on future vacancies, we do not deny his title, but we show that he has been satisfied with regard to his presentation.—*WILLOUGHBY* awarded a writ to the Bishop for the King.—*Quere* whether the King can on a future occasion deraign his presentation by *Scire facias*, since he now has judgment for him; and if he can do so he will then have a presentation twice over by one and the same title, which is not right, and, if otherwise, the judgment is void.

Waste. (77.)¹ § Waste against the Lady Fitz-Payn and her husband, who pleaded No Waste, &c. And at *Nisi prius* the inquest was taken on their default, and on the plea waste was found. And now the plaintiff prayed his judgment on the verdict. The lady prayed to be admitted to defend her right.—*Grene*. Judgment is to be given on the verdict, and not by

This is probably a second | (above, pp. 132-134).
report of No. 2 in the same term |

No. 77.

le tittle le Roi.¹—*Pole*. Sauf a nous nostre dreit A.D. 1346. davowere a presenter a les voidaunces, nous ne dedioms pas son tittle, mes nous moustroms qil est servy de soun presentement.—*WILBY*. agarda brief al Evesqe pur le Roi.²—*Quære* si le Roi par *Scire facias* derrenera autrefoith soun presentement, de puis qil ad ore un jugement pur luy; et, *si sic*, donques avera il deux foith presentement par un mesme tittle, qe nest pas resoun, et, si noun, le jugement est voide.

(77.)³ § Wast vers la dame Fitz Payn et soun Wast. baroun, qe plederunt nulle wast, &c. Et al *Nisi prius* lenqueste pris par lour defaute, et par plee fuit trove le wast. Et ore le pleintif prie son jugement sur verdit. La dame pria destre resceu.—*Grene*. Jugement est a rendre sur verdit, et noun

"et in aliis vacationibus sequen-
"tibus cum acciderint, [et] petit
"judicium si dominus Rex in
"personam ipsius Abbatis aliquam
"injuriam seu impedimentum
"assignare possit in hoc casu,
"&c."

¹ After the plea, according to the record, "Johannes [de Clone] qui sequitur, &c. [i.e. pro domino Rege] dicit quod, ex quo prædictus Abbas ad præsens nihil clamat in præsentatione ad ecclesiam prædictam ratione vacationis supradictæ, petit judicium, et breve Episcopo, &c."

² The judgment was, according to the roll, "Quia dominus Rex tulit breve istud versus ipsum Abbatem de vacatione ejusdem ecclesiæ ipsum dominum contingente ratione vacationis temporali alium Abbatis prædictæ in manu domini Edwardi nuper Regis

"Angliæ avi, &c., existentium, Et
"prædictus Johannes qui sequitur,
"&c., non dedit quin dominus
"Rex nunc præsentavit ad
"ecclesiam illam præfatum
"Ricardum de Scarle ratione
"vacationis supradictæ, qui ad
"eandem fuit admissus et
"institutus, et adhuc est persona
"impersonata in eadem, in qua
"quidem præsentatione ratione
"ejusdem vacationis prædictus
"Abbas ad præsens nihil clamat,
"consideratum est quod dominus
"Rex habeat præsentationem suam
"hac vice ad ecclesiam prædictam
"ratione vacationis supradictæ. Et
"habeat breve Episcopo Lincoln-
"iensi, . . . salvo eidem
"Abbati et successoribus suis jure
"suo præsentandi ad eandem in
"aliis vacationibus, &c. Nihil
"de misericordia quia primo die,
"&c."

³ From L., and C.

Nos. 78, 79.

A.D. 1346. default. Besides, she did not pray to be admitted in the country; and, in an Assise of Novel Disseisin, after the assise has been awarded by default of the husband and his wife, the wife cannot be admitted to defend on another day, even though she pray to be admitted before the assise be taken, nor can she in this case.—SHARSHULLE. In the case which you put touching an assise the award which is made is to take the assise, and that must be executed, and, moreover, the husband and wife have not a day given them on another day, but in this case they have a day in this Court, and the Justices in the country could have admitted her, and therefore she has appeared in sufficiently good time, and therefore let her be admitted.—And she traversed the action.

Capias

78.) § A *Capias utlagatum* issued to a Sheriff, and he returned that he had taken the outlaw, and sent him towards the Court by two of his officers, and while on their way the outlaw was taken from them by force. And by judgment the Sheriff was charged with the body of the outlaw, and was amerced, because it cannot by law be understood that such a rescue could be effected in time of peace, and the Sheriff ought to send the person taken in sufficient custody at his peril, and, moreover, he has an action against those who have effected the rescue, and therefore the King holds the Sheriff responsible.

Account.

(79.) § Account touching the receipt of money. On issue joined by the parties the receipt was found. And before auditors the defendant alleged that the plaintiff had received in divers counties a certain sum of money from him, and produced tallies in proof. The plaintiff tendered his law that he had not received it. And thereupon the auditors adjourned the parties before the Justices. And there, after consideration by the Court, the wager of law was admitted.

Nos. 78, 79.

pas par defaute. Dautre part, ele ne pria pas en A.D. 1346. pays; et, en Assise de Novele Disseisine, apres lagarde del assise par defaute le baroun et sa femme, a autre jour la femme nest pas resceivable, tut prie ele avant qe lassise soit pris, *nec hic*.—SCHAR. En le cas qe vous mettetz¹ dassise lagarde est fait de prendre lassise, quel covient estre execut, et auxint le baroun et la femme navoint pas jour a un autre journe, mes en ceo cas ils ount jour cy, et les Justices en pays la pount aver resceu, par qai ele est venuz assetz en seisoun, et pur ceo soit resceu. —Et ele traversa laccion.

(78.)² § *Capias utlagatum* issit au Vicounte, qe *Capias*. retourna qil luy avoit pris, et luy maunda vers la Court par deux de soens, et en venant il fuit pris de eux par force. Et par agarde il fuit charge del corps, et amercie, qar ceo ne poet estre entendu par ley en temps de pees qe tiel rescous serreit fait, et le Vicounte luy maundereit par certains gardeins a son peril,³ et auxint il ad saccion vers ces qe luy rescoustrent, par qai le Roi prent al Vicounte, &c.

(79.)² § Accompte de resceit de deners. Trove fuit Accompte. a mise des parties la resceit. Et devant auditours le defendant alleggea qe le pleintif en divers countes⁴ ad resceu certeine summe de ly, et de ceo moustra tailles. Le pleintif⁵ tendi⁶ sa ley qe noun. Et sur ceo les auditours les⁷ adjourna devant⁸ Justices. Et illoeqes par avys de Court la ley resceu, &c.

¹ L., mettetz avant.

² From L., and C.

³ C., perille.

⁴ C., countees.

⁵ MSS., defendant.

⁶ L., tendist.

⁷ les is omitted from L.

⁸ C., avant.

No. 80.

A.D. 1346. (80.) § A man recovered damages against an Abbot, and now prayed an *Elegit*, and it was granted to him.

No. 80.

(80.)¹ § Une homme recoveri damages vers un A.D. 1346.
Abbe, et ore il pria le *Elegit*, et ceo lui fut ^{[Fitz.,}
graunte. ^{*Execucion,*}
^{83.]}

¹ From H. alone. See Y.B., Mich., 19 Edw. III., No. 61 (p. 422).



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TRINITY TERM
IN THE
TWENTIETH YEAR OF THE REIGN OF
KING EDWARD THE THIRD
AFTER THE CONQUEST.
(FIRST PART.)

TRINITY TERM IN THE TWENTIETH YEAR OF
THE REIGN OF KING EDWARD THE THIRD
AFTER THE CONQUEST.

No. 1.

A.D. 1346. (1.) § Matthias de Leeke brought a *Quare impedit*
Quare against Alexander de Leeke, and John his brother.
impedit. Alexander appeared, and John made default, and
Matthias was essoined, and a day was given to him
to appear now. Therefore, on the first day of the
Octaves, *Thorpe* said, for Alexander, that he was
ready to answer, and prayed that Matthias might
be called.—Thereupon *Grene* appeared for Matthias,
and said that he could not say anything with
regard to this suit, but disavowed it, and that if it
seemed to the Court that he could not disavow it
by reason of the continuance of it which had been
made on the writ, he was ready to count. And
he said, moreover, that Alexander had sued a
Quare impedit against Matthias, in respect of the
same church, returnable last Term, and that writ
was returned *tarde*, and thereupon an *alias* summons
was awarded returnable now. And we tell you (said
Grene) that we were summoned in the country by the
Sheriff, and, although this *alias* summons has not been
returned, still the original is in this Court, and you
ought to hold the plea upon that. Therefore, since
we testify that the *alias* summons has been served,
and you have the original before you, we therefore

DE TERMINO TRINITATIS ANNO REGNI REGIS
EDWARDI TERTII A CONQUESTU VICESIMO.¹

No. 1.

(1.)² § Matheu de Leeke porta un³ *Quare impedit* A.D. 1346.
vers Alisaundre de Leeke, et J. son frere. A. *Quare impedit*.
apparust, et J. fist defaute, et Matheu fut essone, [Fitz.,
et jour done a ore. Par quei, al primer jour des *Quare impedit*,
utaves, *Thorpe*, pur Alisaundre, dit qil fut prest a 64.]
respoundre, et pria qe M. fust demande.—Sur quei
Grene vint pur luy, et dit qil ne savoit rienz dire
de ceste sute, eins le desavowa, et si sembloit a la
Court qil nel pout desavowere pur la continuaunce
qe en est fait sur le brief, prest est a counter.⁴
Et dit outre coment Alisaundre ad suy un *Quare*
impedit vers luy, de mesme leglise, retournable le
drein⁵ terme, quel brief fut retourne *tarde*, sur quei
un somons *sicut alias* agarde retournable a ore. Et
vous dioms qe nous estoioms somons en pays par
le Vicounte, et, coment qe ceo somons⁶ *sicut alias*
ne fut pas retourne, unqore loriginal est ceinz, sur
quel vous devetz tenir le plee. Par quei puis qe
nous tesmoignoms qe le *sicut alias* est servy, et
vous avetz loriginal devant vous, par quei nous

¹ The reports of this term are from the Lincoln's Inn MS. (called L.), the Harleian MS. No. 741 (called H.), the MS. in the University Library at Cambridge, Hh. 2, 3 (called C.), and the Isham transcript (called I.).

² From H., and I., but corrected by the record, *Placita de Banco*, Trin., 20 Edw. III., R^o 54, d. It there appears that the action was

brought by Matthias de Leeke against Alexander de Leeke and John his brother, in respect of a presentation to the church of Leeke (Leake, Lincolnshire).

³ I., soun.

⁴ H., a conustre ; I., dacompter, instead of a counter.

⁵ I., mesme.

⁶ somons is omitted from H.

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A.D. 1346. pray that Alexander do count against us on this writ.—*Thorpe*. We take your records to witness that Matthias will not prosecute his own writ, and we demand judgment, since he has been essoined on the same original, and has a day now, and now will not count, and we pray a writ to the Bishop. And as to that which you say touching the other writ sued by us, if the *alias* summons had been returned we should be ready to count, but before it is returned the law does not put us to do so.—*STOFFORD*. Before the fourth day of Term it has not been the custom for anyone to begin any plea, except a proffer on a writ of Right, and therefore we shall record whatsoever is said on one side and on the other on the fourth day.—And on the fourth day Alexander was called on the writ in which he was himself plaintiff, and he appeared, and *Grene*, on behalf of Matthias, prayed that Alexander might count against him.—*Thorpe* recited that, on the first day of the Octaves, Matthias had been called on a writ which he had brought against Alexander, to which writ Alexander appeared, and Matthias said that he would not prosecute that writ, and therefore (said *Thorpe* on his nonsuit then recorded we pray a writ to the Bishop.—*Grene*. We take your records to witness that on the first writ, on which Alexander is now called as plaintiff, he would not count; and as to his statement that we said that we would not prosecute our writ, it is not so; for we disavowed the suit, and that conditionally, to the effect that if it should seem to the Court that we could not disavow it by reason of the continuance taken since the purchase of the writ, we were ready to count; and we still are so; therefore on your present non-suit we pray a writ to the Bishop.—*Thorpe*. When two writs of *Quare impedit* are sued, one for the defendant, and one for the plaintiff, each

No. 1.

prioms qil counte vers nous a cest brief.—*Thorpe*. A.D. 1346. Nous pernomms voz recordes qil ne voet pas suyr son brief, et demandoms jugement, puis qil ad este essone en mesme loriginal, et ad jour a ore, et ore ne voet pas counter, et prioms brief al Evesqe. Et a ceo qe vous parletz del autre brief suy par nous, si le *sicut alias* fut retourne nous serroms prest a counter, et avant qil soit retourne ley ne nous mette pas a ceo faire.—*Stouf*. Avant le quarte jour homme ne soleit pas attamer nul ple, sil ne fut un profre en brief de Dreit, par quei nous recorderoms quanqe est dist dune parte et dautre al quarte jour.—Et a cel jour A. fut demande al brief en quel il fut pleintif mesme, et vient, et *Grenc*, pur M., pria qil countast vers luy.—*Thorpe* rehercea coment al primer jour des utaves M. fut demande a un brief qil avoit porte vers luy, a quel brief il apparust, et dit qil ne voleit pas suir cel brief, par quei sur sa noun sute adonques recorde nous prioms ore brief al Evesqe.—*Grenc*. Nous pernomms voz recordes qe a primer brief, a quel il est ore demande come pleintif, il ne voleit¹ pas counter; et a ceo qil parle qe nous deismes qe nous ne vodrioms² pas suir, il nest pas issi; qar nous desavowames la sute, et ceo³ *conditionaliter*, qe si sembloit a la Court qe nous nel purrioms⁴ faire pur la continuaunce pris sur le brief, prest fumes a counter; et unquore sumes; par quei a vostre nounsute a ore nous prioms brief al Evesqe.—*Thorpe*. Quant deux *Quare impedit* sount suyz, lun pur le defendant, lautre pur le pleintif, chescun

¹ H., voet.² I., voudrems.³ I., hoc.⁴ I., purroms.

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A.D. 1346. against the other, if judgment be rendered on the original which you brought, we shall not be put to count; for if we were to count, and judgment were afterwards rendered for us on your non-suit on the ground that you could not disavow your suit because of the continuance, that count would then have been counted to no purpose; and even though the Court were to give judgment that he could not disavow his suit, but that he should be admitted to count, as was said, in virtue of his conditional plea, still he ought to be put to count rather than we should, because he was first called on this writ.—WILLOUGHBY. Then you will not count on your behalf, nor he on his behalf, and therefore we can well let the matter rest in peace.—*Thorpe*. You can first give judgment on the point on which we abode judgment on the first day, on the writ in which he was himself plaintiff, and the judgment on that point, if it is in our favour, puts an end to this writ; and, if the judgment is that he cannot disavow the suit by reason of the continuance, then he will now be in the same plight as he was at that time; and at that time when we, who were defendant, made our proffer he must have counted, or else we should have had a writ to the Bishop; and so we shall now; therefore we demand judgment on that point, and pray a writ to the Bishop.—SHARSHULLE. On that issue in law judgment cannot be given either for you or for him; both writs come to an end; and therefore it were well that you should consider.—*Skipwith*. No, Sir, it cannot be so. If you give judgment that he could not disavow the suit, and that, because he did not count at that time, you award us a writ to the Bishop, that judgment would put an end to both writs; but if you give judgment that he could not disavow the suit, but save him his suit conditionally in accordance with his plea, that judgment will first—

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vers autre, si jugement soit rendu sur loriginal quel A.D. 1346. vous portastes, nous ne serroms pas mys a counter; qar si nous countassoms,¹ et apres jugement fut rendue pur nous sur vostre nounsute pur ceo qe vous ne purriez pas desavowere le suite pur la continuaunce, dounques serra cel counte counte en veyn; et mesqe Court ajuggeast qil ne pout desavowere, mes qil fut resceu a counter come par son ple condicionel fut parle, unquore dust il estre mys plus toust qe nous ne serroms, puis qe a cel brief il fut primes demande.—WILBY. Dounques vous ne voletz pas counter de vostre parte, ne il de sa parte, par quei nous le poms bien soeffrir² qil gise en pees.—Thorpe. Vous juggeretz primes sur nostre demure le primer jour sur le brief a quel il fut mesme pleintif, quel jugement sur cel, sil passe pur nous, termine cest brief, et, sil passe qil ne put desavowere la sute pur la continuaunce, donques serra il a ore en mesme le plit come il fut adonques; et adonques quant nous, qe fumes defendant, ceo profrumes³ il luy covensist counter ou nous eussoms eu brief al Evesqe; et auxi serroms a ore; par quei nous demandoms jugement sur cel, et prioms brief al Evesqe.—SCHARS. Sur cele demure ne pout ajugger pur vous, ou pur luy; termine lun brief et lautre; et pur ceo il est bon qe vous avisetz.—Skip. Nanil, Sire, il ne poet estre issi. Si vous ajuggez qil ne poait desavowere la suyte, et de ceo qil ne counta pas adonques dagarder a nous brief al Evesqe, quel jugement terminereit lun brief et lautre; mes si vous ajuggez qil ne poait desavowere, et luy salver sa sute *conditionaliter* come il plede, donques serra cele

¹ MSS. of Y.B., conissames.² H., sufferer.³ I., proferoms.

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A.D. 1346. have to be put in execution; therefore, since we assign a default in him, which may possibly put an end to this original, we shall not be put to count until judgment has been given on that default, as has been said before. And, moreover, Sir, in the same *Quare impedit* on which he appeared on the first day there is named one John, who is here ready, &c., and who prays that Matthias do count against him.—*Grenc.* We are called on an original by which Alexander is plaintiff, and he will not count; therefore we pray a writ to the Bishop. And as to your proffer we are not called on that original; therefore, &c.—*Skipwith.* Then we take your records to witness that he will not count against John, and on John's behalf we pray a writ to the Bishop. And, moreover, on the first day Matthias disavowed the same suit, and that he could not do by reason of the continuance taken on the same writ, and at that time he would not count against us; and the dispute between him and John is no reason why he ought not to count against us, if he is to count against John, and that he will not do; therefore, &c.—*SHARSHULLE.* The disavowal which was made was made only conditionally, and it seems to us that you cannot make that disavowal; therefore you must be put to count in accordance with what was said in your conditional plea; therefore count, if you will, or else we shall deliver you immediately.—Therefore *Notton* counted, on behalf of Matthias, against Alexander and John, to the effect that it belonged to him to present, because one Nicholas,¹ his father, was seised of the advowson as of fee and of right, and presented one Walter,¹ and the same Nicholas gave the same advowson, together with eight acres of meadow, to this same Matthias and to the heirs of his body begotten. And after the death of

¹ For the full names, see p. 463, note 1.

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agarde primes execut; par quei puis *ge nous A.D. 1346. assignoms un defaute en luy quel poet terminer ceste original, tantqe cel defaute soit ajugge come avant est dit, nous ne serroms pas mys a counter. Et auxi, Sire, en mesme le *Quare impedit* en quel il apparust le primer jour il y ad un J. nome, qest ycy¹ prest, &c., qe prie qe M. counte vers luy.—*Grene*. Nous sumes demande a un original par quel A. est pleintif, et il ne voet pas counter; par quei nous prioms brief al Evesqe. Et quant a vostre profre, nous ne sumes pas demandez en cel original; par quei, &c.—*Skip*. Donques pernomms voz recorderz qil ne voet pas counter vers J., et prioms pur luy brief al Evesqe. Et auxi al primer jour il desavowamesme la sute, quel il ne poait faire pur la continuaunce pris sur mesme le brief,² et adonques navoit pas volu de counter vers nous; et le debat entre luy et J.³ nest pas cause qil ne luy covient counter vers nous, si vers J., et ceo ne voet il pas faire; par quei, &c.—*SCHARS*. Le desavowement qe fut fait ne fut pas fait mes condicionelment, quel desavowement semble a nous qe vous ne poetz faire; par quei il covient qe vous soietz mys a counter solonc ceo qe en vostre condicionel plee fut parle; par quei countez si vous voilletz, ou nous vous deliveroms tantost.—Par quei *Nottone* counta pur M. vers A. et J. qe a luy appent a presenter, pur ceo qun Nichol, soun pere, fut seisi del avowesoun come de fee et de dreit, et presenta un W., le quel N. dona mesme lavowesoun, ensemblement od viij. acres de pree, a mesme cestuy M. et a les heirs de son corps engendres. Et apres la mort

¹ I., issi.² I., sur le primer brief pris,

| instead of pris sur mesme le brief.

³ I., A.

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A.D. 1346. Nicholas,* Matthias gave the advowson, with the meadow, to his mother for term of her life, and she presented one Robert,¹ by reason of whose death the church is now void. And his mother is now dead, and he is now in possession as in his reversion, and so it belongs to him to present.—*Skipwith*. We tell you, on behalf of Alexander, that what he calls eight acres of meadow is sometimes arable land, and sometimes pasture, at the will of the tenant, and that the advowson is appendant to those eight acres, and Nicholas, of whom he has spoken, presented as if it were appendant, and continued that estate during his whole life. And, after his death, because the eight acres are partible between males, as being of the fee of the Earl of Richmond, those eight acres, together with the advowson, descended to the plaintiff and to

¹ For the full name see p. 463. note 1.

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N. il dona lavowesoun, od le pree, a sa^e mere a A.D. 1346. terme de sa vie, la quel presenta un R., par qi mort leglise est ore voide. Et sa mere est ore morte, et il est ore eins come en sa reversion, et issint appent a luy a presenter.¹—*Skip*. Nous vous dioms, pur Alisaundre, qe ceo qil appelle viij. acres de pre est a la foitz terre arable, et a la foitz pasture, a la volunte le tenant, as queux viij. acres lavowesoun est appendant, le quel Nichol de qi il ad parle presenta come appendant, et cel estat continua tut sa vie. Et, apres sa mort, pur ceo qe les viij. acres sont departables entre madles, come del fee de R., si descenderent les viij. acres ensemblement od lavowesoun al pleintif et a luy et a J.

¹ The speeches preceding the declaration are not represented on the roll. The declaration there is:—"quod quidam Nicholaus de Leeke, miles, fuit seiscitus de advocacione ecclesie predictae, tempore Edwardi Regis avi domini Regis nunc, qui ad eandem ecclesiam presentavit quendam Walterum de Spaldynge, clericum suum, qui ad presentationem suam fuit admissus et institutus. . . . tempore ejusdem Regis Edwardi avi, qui quidem Nicholaus advocacionem ecclesie predictae, et octo acras prati, cum pertinentiis, in Leeke. per nomen duarum placearum prati, per scriptum suum dedit et concessit ipsi Matthiae qui nunc queritur, per nomen Matthiae filii ejusdem Nicholai, tenenda sibi et heredibus et assignatis suis in perpetuum, virtute quarum donationis et concessionis idem Matthias seiscitus fuit de eisdem advocacione et prati, et ea postmodum concessit cuidam Isabellae de Leeke, matri suae, tenenda ad

"totam vitam ejusdem Isabellae, ita
 "quod post mortem ipsius Isabellae
 "predictae advocatio et pratum ad
 "ipsum Matthiam et heredes suos
 "reverterentur, virtute cujus concessionis eadem Isabella seiscita
 "fuit de advocacione et prato predictis, quo tempore ecclesia predicta vacavit per mortem predicti
 "Walteri, per quod eadem Isabella
 "presentavit ad eandem quendam Robertum de Leeke, clericum
 "suum, qui ad presentationem suam fuit admissus et institutus.
 ". . . . tempore domini Regis
 "nunc, quae quidem Isabella obiit, per quod idem Matthias intravit
 "in advocacione et prato predictis, ut in reversione sua, &c. Et
 "postea predictus Robertus de Leeke per predictam Isabellam
 "presentatus, &c., obiit, per cujus mortem ecclesia illa modo vacat.
 "Et, quia idem Matthias seiscitus est de advocacione et prato predictis, pertinet ad ipsum Matthiam
 "ad predictam ecclesiam presentare."

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A.D. 1346. Alexander and John, as to three sons and one heir, and they were seised in common by descent. And we tell you that the plaintiff gave the advowson to our mother for term of her life, and afterwards assigned the eight acres to our mother to hold in dower, we being then under age, whereupon the church became void, and she presented, as he has said, and that presentation made by her, since she was purchaser of the advowson, and not tenant of it in dower, was in the turn of Matthias, who is the eldest son. And we tell you that our mother is dead, and we have entered upon the eight acres as in our reversion, and are seised in common with you. And this is the second voidance, which is our turn, as being the middle son, and so it belongs to us to present, *absque hoc* that Nicholas enfeoffed the plaintiff of the eight acres or of the advowson; ready, &c. And we demand judgment, and pray a writ to the Bishop. And, as to

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come a iij. fitz et un heir, et eux seisiz en comune A.D. 1346.
 par descende. Et vous dioms qe le pleintif dona
 lavowesoun a nostre mere a terme de sa vie, et
 puis assigna les viij. acres a nostre mere a tenir en
 dower, nous adonques esteauntz deinz age, par quei
 leglise se voida, et ele presenta come il ad parle, quel
 presentement fait par luy, pus quele fut purchaceour
 de cele, et ne mye tenante en dower, fut en le tourn
 M. qest fitz eisne. Et vous dioms qe nostre mere
 est morte, et nous sumes entre en les viij. acres come
 en nostre reversion, et seisiz sumes en comune od
 vous. Et ceste la secunde voidaunce, qest nostre tourn
 qe sumes milieu, et issi appent il a nous a presenter,
 saunz ceo qe Nichol enfeffa le pleintif de les viij.
 acres ou de lavowesoun; prest, &c. Et demandoms
 jugement, et prioms brief al Evesqe.¹ Et quant a

¹ The plea on behalf of Alexander
 was, according to the record, "quod
 "prædictæ placeæ de quibus præ-
 "fatus Matthias in narratione
 "sua facit mentionem, aliquibus
 "annis sunt terra arabilis, et
 "aliquibus annis pratum, et
 "aliquibus annis pastura, pro
 "voluntate illorum qui placeas
 "illas tenuerint, ad quas quidem
 "placeas advocatio ecclesiæ præ-
 "dictæ pertinet tempore quo
 "prædictus Nicholaus seisitus fuit
 "de placeis illis, et adhuc pertinet.
 "Et idem Nicholaus, seisitus de
 "advocatione prædicta, tanquam
 "pertinente ad prædictas placeas,
 "præsentavit ad eandem ecclesiam
 "prædictum Waltherum de Spald-
 "yng, qui in forma illa admissus
 "fuit ad eandem, &c., qui quidem
 "Nicholaus de placeis illis et
 "advocatione prædicta tanquam
 "pertinente, &c., obiit seisitus,
 "post cujus mortem prædictæ
 "placeæ simul cum advocatione

"prædicta descenderunt prædicto
 "Matthias, et ipsi Alexandro, et
 "præfato Johanni, ac cuidam
 "Edmundo, ut filiis et heredibus
 "prædicti Nicholai, eo quod placeas
 "illæ sunt de tenura feodi Comitis
 "Richemunde, et tenentur in
 "socagio, et sunt partibiles inter
 "heredes masculos, &c., et inde
 "seisiti fuerunt, &c., quo tempore
 "iidem Alexander, Johannes, et
 "Edmundus fuerunt infra ætatem,
 "&c. Et prædictus Matthias
 "statum suum quem habuit in
 "advocatione prædicta concessit
 "præfatæ Isabellæ matri suæ
 "tenendum ad terminum vite
 "ejusdem Isabellæ. Et postmodum
 "assignavit placeas illas eidem
 "Isabellæ tenendas simul cum
 "aliis tenementis nomine dotis
 "eam contingentis de libero tene-
 "mento quod fuit prædicti Nicholai
 "quondam viri sui, &c. Et post
 "mortem ejusdem Isabellæ iidem
 "Matthias, Alexander, Johannes,

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A.D. 1846. John, *Skipwith* said as above, and that he did not claim anything in the presentation at present, saving to himself his turn on a future occasion, &c. And he said that Nicholas presented to the same church as being appendant to the eight acres, and demanded judgment of the count.—*Pole*. As to that answer both of Alexander and of John we will imparl. And we pray that Alexander do count against us on the writ which he brought against us.—Therefore Alexander was called with respect to that writ, and he answered by attorney.—*Thorpe* said, on behalf of Alexander, that he ought not to count on that original writ, for (said *Thorpe*) on your original writ we have made a claim to the advowson, and we have shown that it

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J. il dit *ut supra*, et il ne cleyme riens en le A.D. 1346. presentement a ore, sauve a luy autrefoitz son tourn, &c. Et dit qe Nichol presenta a mesme leglise come appendant a les viij. acres, et demanda jugement de counte.¹—*Pole*. Quant a cel respons del un et del autre nous voloms enparler. Et prioms qe al brief qe A. porta vers nous qil counte vers nous.—Par quei a cel brief il fut demande, qe respondi par attourne.—*Thorpe*, pur A., dit qil ne covient pas counte en ceste original, qar en vostre original nous avoms clame en lavowesoun, et avoms moustre qe a

" et Edmundus intraverunt in
" placeis illis et advocacione præ-
" dicta in communi, &c. Et inde
" seisisi sunt in communi, &c. Et
" quo ad præsentationem prædicto
" Roberto per prædictam Isabellam
" factam dicit quod illa vacatio fuit
" prima vacatio de ecclesia prædicta
" post mortem prædicti Nicholai, et
" turnus præfati Matthiæ ipsum
" contingens ut filium prædicti
" Nicholai antenatum, &c. Et quia
" ista vacatio nunc est secunda
" vacatio post mortem prædicti
" Nicholai pertinet ad ipsum
" Alexandrum ut filium prædicti
" Nicholai proxime postnatum,
" &c., ut in turno suo ipsum con-
" tingente, &c., ad prædictam
" ecclesiam præsentare. Et status
" quem idem Matthias habet in
" placeis illas ad quas, &c., est
" incommuni cum ipsis Alexandro,
" Johanne, et Edmundo, eo quod
" placeis illæ sunt partibiles inter
" heredes masculos, &c., de quibus
" placeis prædictus Nicholaus obiit
" seisisitus, absque hoc quod præ-
" dictus Matthias unquam aliquid
" habuit ex dono præfati Nicholai,
" &c. Et hoc paratus est verificare,
" unde petit judicium, et breve
" Episcopo, &c."

¹ The plea on behalf of John was, according to the record, " Dicit, in
" forma qua prædictus Alexander
" superius dixit, quod prædicta
" advocatio fuit pertinens prædictis
" placeis, et adhuc est, et quod
" prædictus Nicholaus tanquam
" pertinentem præsentavit, &c., et
" quod placeis illæ et advocatio
" prædicta descenderunt ipsis
" Matthiæ, Alexandro, Johanni, et
" Edmundo post mortem prædicti
" Nicholai, &c., et quod prædictus
" Matthias statum suum de
" advocacione illa concessit præfate
" Isabellæ, et placeas illas post-
" modum eidem Isabellæ assignavit
" nomine dotis, &c., et quod, post
" mortem ejusdem Isabellæ, ipsi
" seisisi sunt de placeis illis, et de
" advocacione prædicta in com-
" muni, &c., et quod prædicta præ-
" sentatio per prædictam Isabellam
" facta fuit turnus prædicti Matthiæ,
" &c., et quod vacatio ista est
" turnus prædicti Alexandri, &c.,
" unde, salvo sibi jure suo præ-
" sentandi ad ecclesiam prædictam
" in turno suo cum acciderit, dicit
" quod ipse non impedivit ipsum
" præsentare ad eandem, &c. Et
" hoc paratus est verificare, unde
" petit judicium, &c."

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A.D. 1346. belongs to us to present, and in that case each of us is in the position of plaintiff against the other; therefore, if we were to be put to count on this original, we should be supposing that we could deraign our claim twice over; and that conclusion is false. And, moreover, if an issue of the plea were joined on the one writ, and we were put to count on the other, the law would give you the advantage of giving another issue thereon, which is not permissible; therefore, &c.—*Pole*. It is not so, for the issue which is joined in the one plea will serve for both; but that does not prove that it is not necessary that you should count: for, when the writ has been served and returned, if you will not prosecute your suit, the King will have an amercement; therefore, although you have answered to my writ, and made a claim to the advowson, that does not discharge you of your suit, so that you must either count on your original or be nonsuited for the King's advantage.—*Thorpe*. That which we have given for answer to your original we wish to serve as our count.—*Pole*. And, inasmuch as you do not state your count in legal form, we demand judgment of your nonsuit.—*SHARSHULLE*. If you abide judgment on that absolutely, the judgment will put an end to one suit as well as the other, and therefore consider.—And it was said, with regard to *Thorpe's* statement, that it was sufficient without counting in legal form.—Therefore *Pole* went out to imparl, and came back, and said:—Alexander has given an answer, and has made a claim to the advowson, and John has traversed our count, and has also made a claim to the advowson, and that is a different answer from the one which Alexander has given, and we pray that they be put to join in one answer.—*Skipwith*. You have supposed a tortious disturbance, and John cannot be convicted on Alexander's plea, and therefore

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nous appent a presenter, en quel cas chescun de A.D. 1346 nous est actour vers autre; par quei si nous fuissoms mys a counter en ceste original, nous supposeroms qe nous purrioms deux foitz deresner; *consequens falsum*. Et auxi si un issue de pleee fuist joynt en lun, et nous fuissoms mys a counter, la ley vous durreit avantage de doner a cele autre issue, qe nest pas soeffrable; par quei, &c.—*Pole*. Il nest pas issi, qar lissue qest joint en lun pleee servira pur lun et pur lautre; mes ceo ne prove pas qil ne covient qe vous countez; qar, quant le brief est servi et retourne, si vous ne voilletz suir, le Roi avera lamerquement; par quei, mesqe vous eietz respondu a moun brief, et clame en lavowesoun, ceo ne vous descharge pas de vostre sute, qe ou il covient qe vous countez sur vostre original ou qe vous soietz nounsuy en avantage le Roi.—*Thorpe*. Ceo qe nous avoms done pur respons a vostre original nous voloms pur counte.—*Pole*. Et de ceo qe vous ne dites pas en forme de lei nous demandoms jugement de vostre nounsute.—*SCHARR*. Si vous demurez la tut attrenche, le jugement terminera lune sute et lautre, et pur ceo avisetz vous.—Et fut dit qe de ceo qe *Thorpe* dit suffit saunz counter en forme de lei.—Par quei *Pole* issist denparler, et revient, et dit qe A. ad done un respons, et ad clame en lavowesoun, et J. ad traverse nostre counte, et auxi ad clame en lavowesoun, qest autre respons qe A. nad done, et prioms qils soient mys de joindre en un respons.—*Skip*. Vous avetz suppose torcinouse destourbaunce, et par le ple A. J. ne serra pas atteint, par quei

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A.D. 1346. the law gives them several answers ; for one of them cannot be compelled to hold to the answer of the other, nor *e converso* ; and, inasmuch as you do not answer to their pleas, judgment, &c.—WILLOUGHBY. If he took issue on both pleas, and the finding were in his favour against John, and against him in favour of Alexander, a writ to the Bishop would be awarded for him, and against him also ; if the finding were in favour of Alexander and John against the plaintiff, each of them would have severally a writ to the Bishop, and that would be inconsistent ; therefore it seems that he shall not be charged with both your pleas.—*Thorpe*. John has not, as to the present time, made any claim to the presentation, but to the patronage ; therefore an issue found in his favour will not give him a writ to the Bishop by reason of his disclaimer with regard to this presentation.—*Grene*. Though he does not claim anything in this presentation now, he makes a claim to the patronage, and to have, in the event of the issue being found in his favour, the next presentation, and that presentation on the next voidance, if the verdict on the issue be in his favour, will be executed by virtue of the judgment rendered on that verdict just as much as in the case of the presentation which has now occurred ; therefore, just as he would not have enjoyed the presentation if he had affirmed in himself a title to present on this occasion separately from A., so he will not do so any more in respect of a presentation which he claims to have on the next voidance ; therefore, &c.—WILLOUGHBY. Answer to Alexander's plea, and we shall then be able to deal with John's plea.—*Grene*. Sir, give judgment that we are to be discharged of John's plea, and we will willingly answer to Alexander's plea.—WILLOUGHBY. Deliver yourself with regard to Alexander.—*Notton*. Willingly, Sir. You

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leie doune a eux several respons; qar lun serra pas A.D. 1346.
 arce de prendre al respons lautre, *nec e converso*; et,
 de ceo qe vous ne responez pas a lour plees,
 jugement, &c.—WILBY. Sil prist issue al un plee et
 al autre, et fut trove¹ pur luy vers J., et encountre
 luy pur A., homme agardereit pur luy brief al Evesqe,
 et encountre luy auxi; sil fut trove pur A. et J.
 encountre le pleintif, chesqun de eux averoit brief
 al Evesqe severalment, qe serreit inconvenient; par
 quei il semble qil ne serra pas charge de voz deux
 plees.—*Thorpe*. J. nad rienz clame, quant a ore, en
 le presentement, mes en lavowere; par quei un issue
 trove pur luy ne luy durra pas brief al Evesqe pur
 le desclamance en ceste presentement. — *Grene*.
 Coment qil ne cleime rienz en ceste presentement a
 ore, il cleime en lavowere, et a aver, par lissue
 trove pur luy, le prochein presentement, quele
 presentement a la prochein voidaunce, si lissue passe
 pur luy, serra execut par le jugement taille sur cel
 verdit auxi avant come del presentement qest a ore
 avenu; par quei nent plus qe sil ust afferme title
 de presenter en luy a ore several de A. il nel ust
 enjoye, nent plus ne fra il dun presentement quel
 il cleyme a aver a la prochein voidaunce; par quei,
 &c.—WILBY. Responez al plee A., et nous froms
 bien del plee J.—*Grene*. Sire,² ajuggetz qe nous
 serroms descharge del plee J., et nous respondroms
 volunters al plee A. — WILBY. Deliveretz vous
 de A.—*Nottone*. Sire, volunters. Vous veietz bien

¹ The words *et fut trove* are
 omitted from I.

² Sire is omitted from I.

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A.D. 1346. see plainly how we have counted that Nicholas, our father, enfeofed us of the eight acres and of the advowson, and we have made *profert* of a deed which testifies the fact; therefore, since you have claimed to be one of the heirs of Nicholas by reason of the land being partible, we ask you whether this is your ancestor's deed or not.—*Skipwith*. And since you have by your count made yourself heir to Nicholas, and you put us to answer as to the deed as one of his heirs, and that by reason of this partible land which has descended to us, we therefore pray that the Court do hold it as not denied by you that the land is partible; and you have not denied that Nicholas died seised, nor that the land came by descent to us in common with you, and therefore we demand judgment, &c.—*WILLOUGHBY* to the plaintiff. Will you say anything else? for it seems that you are jesting with us; therefore deliver yourself, or we will deliver you.—*Notton*. Sir, we make protestation that we do not acknowledge that which they have said, but we tell you that Nicholas gave us the eight acres with the advowson, and that we leased them to our mother for term of her life, and we entered after her death, and were seised as in our reversion when the church became void. And, whereas they have said that Nicholas died seised, *absque hoc* that we have anything by gift from Nicholas, we say that Nicholas gave us the eight acres with the advowson as we have counted; ready, &c.—*Skipwith*. You have claimed the advowson as being in gross by your declaration, and in your replication to our answer you have said that you were sole seised of the eight acres at the time at which the church became void, and are so this day, and that would have sufficed to give you a writ to the Bishop if you had not claimed the advowson in gross by your count; and further you have tendered

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coment nous avoms counte qe Nichole, nostre pere, A.D. 1346. nous enfeffa de les viij. acres et del avowesoun, et de ceo avoms mys avant fait qe le tesmoigne; par quei, puis qe vous avetz clame destre un des heirs Nichole par cause de terre departable, nous vous demandoms si ceo soit le fait vostre auncestre ou nient.—*Skip*. Et de puis qe par vostre counte vous vous avetz fait heir a Nichole, et vous nous mettez a respoudre al fait com un de ses heirs, et ceo par cause de cele terre departable a nous descendu, par quei nous prioms qe la Court tiegne a nent dedit de vous qe la terre est departable; ne vous navetz pas dedit qe N. murust seisi, ne terre par la descentevenu¹ a nous en comune od vous, par quei nous demandoms jugement, &c.—*WILBY*. al pleintif. Voletz autre chose dire? qar il semble qe vous nous mokez; par quei deliveretz vous, ou nous vous deliveroms.—*Nottome*. Sire, nous fesoms protestacion qe nous ne conissoms pas ceo qils ont dit, mes nous vous dioms qe N. nous dona les viij. acres od lavowesoun, et qe nous les lessames a nostre mere a terme de sa vie, et apres sa mort nous entrames, et seisiz fumes com en nostre reversion quant leglise se voida. Et, la ou ils ont dit qe N. murust seisi, saunz ceo qe nous navoms rienz del doun N., qe N. nous dona les viij. acres od lavoweson come nous avoms counte; prest, &c.—*Skip*. Vous avetz clame lavoweson come un gros par vostre demoustraunce, et en vostre replicacion countre nostre respons vous avetz dit qe vous futes soul seisi de les viij. acres en temps qe leglise se voida, et huy ceo jour estes, quel suffit de vous doner brief al Evesqe si vous nel ussetz clame un gros par vostre counte: et outre vous avetz tendu

¹ H., nostre possessioun par | par la descente venu.
la descente, instead of terre |

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A.D. 1346. the averment that Nicholas gave and granted you the eight acres with the advowson, and we will aver the contrary of that gift of the eight acres, and that Nicholas did not give him the eight acres; and if he tenders the averment in the sense that Nicholas granted the advowson although he did not give the land, and will disclose his matter, we will abide judgment with him on the point that, since he has not denied the appendancy, Nicholas could not give the advowson without the land to which it is appendant.—*Grenc.* Certainly, if the church were mine I would put it, at all hazards, to judgment on that point, that is to say, that he could give the advowson, and retain the land for himself; but nevertheless my client will not do so. But you see plainly how in their first answer they tendered the averment that we had nothing by gift from Nicholas, which applied generally to the advowson as well as to the land, and that averment we have contradicted, and now they will not maintain it; therefore we demand judgment, and pray a writ to the Bishop.—*WILLOUGHBY to Skipwith.* If you wished to put that point to judgment, you ought to have pleaded in another manner, as by alleging the appendancy, and have tendered the averment that he had nothing in the eight acres by gift from Nicholas; but now you have denied that he had anything by gift from Nicholas, which denial refers as much to the advowson as to the land, and he has traversed it; therefore will you maintain that of which you tendered averment at the commencement?—*Skipwith* recited his answer, and said that Nicholas died seised of the eight acres to which the advowson was and is appendant, *absque hoc* that the plaintiff had anything in the eight acres or in the advowson by gift from Nicholas; ready, &c.—

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daverer qe N. vous dona et graunta les viij. acres A.D. 1346. od lavoweson, quel doun de les viij. acres nous voloms averer le contraire qe N. ne luy dona pas les viij. acres; et sil tende laverement a tiel entente qil graunta lavoweson coment qil ne dona pas la terre, et desclore sa matere, nous voloms demurer od luy en jugement qe puis qil nad pas dedit lappendance qil ne poait doner lavoweson et ne mye la terre a quei, &c.—*Grene*. Certainement, si leglise fut le meen jeo le mettray, a touz perils, en jugement sur cel point qil purra doner lavoweson et retenir a luy la terre; mes nequident mon client ne voet pas. Mes vous veietz bien coment en lour primer respons il tendirent daverer qe nous navioms riens del doun N., quel fut general auxi bien al avoweson come a la terre, quel averement nous avoms contraire, et ore ils ne voilent meintenir; par quei nous demandoms jugement, et prioms brief al Evesqe.—*WILBY*. a *Skip*. Si vous voudrietz aver mys cel point en jugement, vous dussetz aver plede en autre manere, come daver allegge lappendance, et aver tendu daverer qil navoit rienz en les viij. acres del doun N.; mes ore avetz dedit qil navoit rienz del doun N., quel refiert auxi avant a lavoweson come a la terre, et ceo ad il traverse; par quei voletz meintenir ceo qe vous tendistes daverer a commencement. — *Skip*. rehercea son respons, et dit qe N. murust seisi de les viij. acres as queux lavoweson fust et est appendant, sanz ceo qil navoit rienz en les viij. acres ou en lavoweson de son doun; prest, &c.—

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A.D. 1346. And his issue was entered in that manner.—*Skipwith*.
Now we pray that he answer to the plea which John has pleaded in abatement of his count.—*Grene*. Since John has claimed nothing in the presentation now, although he has made a claim to the patronage to have the next presentation, it does not lie in his mouth to plead against our declaration, but we will aver disturbance to have been made by him as we suppose by our writ.—*Thorpe*. And we demand judgment since you have attached disturbance in our person, and we have claimed the patronage to have the next presentation, and we have tendered the averment that Nicholas presented to the church as being appendant in order to abate your count, the

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Et soun issue par la manere entre.¹—*Skip.* Ore A.D. 1346.
 prioms qil respoigne al plee qe J. ad plede en
 abatement de soun counte.—*Grene.* Puis qe J. nad
 rienz clame en le presentement a ore, coment qe il
 eit clame en le patronage daver le prochein presente-
 ment, en sa bouche ne gist il pas a pleder de
 nostre demoustraunce, mes voloms averer la destourb-
 aunce en luy come nous supposoms par nostre brief.
 —*Thorpe.* Et nous demandoms jugement puis qe
 vous avetz attache destourbaunce en nous, et nous
 avoms clame en le patronage daver le prochein
 presentement, et avoms tendu daverer qe N. presenta
 come appendant pur abatre vostre counte, quele

¹ The replication on behalf of
 Matthias immediately follows the
 plea on behalf of John on the roll, and
 is:—"Matthias, non cognoscendo
 "prædictam advocacionem fuisse
 "pertinentem prædictis placeis,
 "&c., nec præfatum Nicholaum
 "præsentasse tanquam pertinen-
 "tem, &c., nec prædictum
 "Nicholaum fuisse inde seisitum
 "tempore mortis suæ, nec placeas
 "illas esse partibiles, &c., nec
 "assignationem dotis, nec conces-
 "sionem advocacionis præfatæ
 "Isabellæ fuisse factas in forma
 "qua ipsi superius allegarunt, nec
 "tenenciam ipsorum inde esse
 "in communi sicut prædictus
 "Alexander superius allegat, dicit
 "quod prædictus Nicholaus dedit
 "et concessit advocacionem præ-
 "dictam, et prædictum pratum per
 "nomen prædictarum placearum
 "ipsi Matthiæ ut ipse in narratione
 "sua prædicta supponit, virtute
 "quarum donationis et concessionis
 "ipse inde seisitus fuit, et statum
 "illum continuavit tota vita ipsius
 "Nicholai, et postea, quousque
 "easdem advocaciones [sic] et

"placeas dimisit præfatæ Isabellæ
 "tenendas ad totam vitam ejusdem
 "Isabellæ, reversione inde ad
 "ipsum Matthiam et heredes suos
 "spectante, quæ quidem Isabella
 "ad ecclesiam prædictam præfatum
 "Robertum. ut idem Matthias
 "superius narrando dixit, præsen-
 "tavit, et postmodum de tali statu
 "obiit inde seisita, post cujus
 "mortem ipse Matthias intravit in
 "advocatione et placeis prædictis
 "ut in reversione sua, et statum
 "suum inde continuavit quousque
 "prædicta ecclesia vacavit per
 "mortem prædicti Roberti, et
 "usque nunc, et sic solus inde
 "seisitus est. Et, ubi prædictus
 "Alexander superius dicit ipsum
 "Matthiam nihil habuisse in
 "placeis et advocacione supradictis
 "de dono præfati Nicholai, idem
 "Matthias seisitus fuit de advoca-
 "tione et placeis p . . . [roll cut]
 "virtute donacionis et concessionis
 "prædicti Nicholai, sicut ipse in
 "narratione sua prædicta dicit."

Issue was joined on this as
 between Matthias and Alexander,

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A.D. 1346. contrary of which you do not maintain; judgment whether you can affirm disturbance in his person on such a declaration in opposition to that which he has said.—And in the end, because John had not claimed anything in the presentation now, but had disclaimed it, judgment was given that he would not have to counterplead the plaintiff's title, or plead any other plea except denying the disturbance.

Annuity. (2.) § The Bishop of Winchester brought a writ of Annuity against a person of Holy Church. The Sheriff returned that the defendant had no lay fee, but was a clerk beneficed in the bishopric of Winchester. The

No. 2.

chose en le contrare ne maintenez pas; jugement A.D. 1346.
 si en luy sur tiele demoustrance encountre ceo qe
 il ad dit poetz destourbaunce affermer.—Et au
 drein, pur ceo qil navoit rienz clame en ceste
 presentement a ore, mes avoit en cele desclame, fut
 agarde qil navereit pas a contrepleder le tittle le
 pleintif, ne nul autre plee, mes a dedire la
 destourbaunce, &c.¹

(2.)² § Levesqe de Wyncestre porta un brief Annuite.
 Dannuyte vers une persone de Seinte Eglise. Le ^{[Fitz.,}
 Vicounte retourna qil navoit nul lay³ fee, mes fut ^{Proses,} 42.]
 clerk benefice en levesche de Wyncestre. Le pleintif

¹ The replication to John's plea immediately follows the joinder of issue on the replication to Alexander's plea on the roll, and is in the following form:—"Quo ad hoc quod prædictus Johannes superius controplacitavit jus et titulum ipsius Matthiæ in hac parte petit quod ipse de placito illo exoneretur, ex quo idem Johannes nihil clamat ad præsens in præsentatione prædicta. Et petit breve Episcopo, &c. Sed quo ad hoc quod prædictus Johannes asserit ipsum non impedivisse ipsum Matthiam præsentare, &c., dicit quod ipse Johannes, simul, &c., impedivit ipsum præsentare ad eandem, sicut ipse superius in narratione sua supponit."

Issue was joined upon this as between Matthias and John.

According to the roll the parties appeared on the day given on the award of the *Venire*, and "idem Matthias dicit quod, postquam ipsi Matthias, Alexander, et Johannes se posuerunt in juratam prædictam, prædicti Alexander et Johannes, per nomina Alexandri de Leeke, et Johannis de Leeke,

"filiorum domini Nicholai de Leeke militis defuncti, per scriptum suum remiserunt, relaxaverunt, et omnino, pro se et heredibus suis in perpetuum, quietum clamaverunt ipsi Matthiæ et heredibus suis totum jus et clameum quod habuerunt in prædicto prato et advocacione ecclesiæ supradictæ, per nomen duarum placearum prater pertinentiis, in Leeke vocatarum Westmanoversare et advocacionis ecclesiæ de Leeke, ita quod nec ipsi nec heredes sui aliquid juris vel clamei in prædictis prato seu advocacione exigere poterint in perpetuum. Et profert hic prædictum scriptum prædictorum Alexandri et Johannis quod premissa testatur, unde petit judicium. Et Alexander et Johannes non possunt dedicere quin prædictum scriptum sit factum ipsorum Alexandri et Johannis."

Judgment was therefore given for the plaintiff Matthias.

² From H., and I.

³ I., leye.

Nos. 3, 4.

A.D. 1346. plaintiff prayed a writ to the Bishop of Winchester to cause his clerk to appear.—*Moubray*. That is not right, since you are apprised that the Bishop himself is the plaintiff, and therefore to give him a warrant for himself to distrain his opponent to come into Court to answer to him is not right; therefore, in default of the Bishop, we pray that you send to the Metropolitan to cause his clerk to come.—*HILLARY*. We will never send a writ to the Metropolitan unless we can find a default in the Bishop himself.—Therefore *HILLARY* awarded a writ to the Bishop of Winchester to cause his clerk to come, &c.

Fine. (3.) § *Grene* levied a fine in such a manner that two men acknowledged the tenements, &c., to be the right of the plaintiff, and the plaintiff granted that two acres of land which one held for his life, and ten acres of land which another held for his life, of the inheritance of the conusors, and which, after the death of the tenants for life, were to revert to the conusors, should remain to that other and his heirs, with warranty.

Dower. (4.) § A writ of Dower was brought in London. The tenant vouched one who was foreign to the city, and therefore the parol was adjourned into the Bench as the statute¹ purports. And now in the Bench the tenant was essoined.—And exception was taken to the essoin by *Sadelyngstanes*, on the ground that this day and the day on which the tenant vouched in London are all one day in law, and process has now to be commenced against the vouchee, and therefore, as the tenant could not have been essoined on the same day on which he vouched, no more can he be essoined now.—*HILLARY*. His appearance on this day would deprive him of the essoin, but now he has a day after a previous appearance.—Therefore the essoin was adjudged, and a day was given.

¹ 6 Edw. I. (Glouc.), c. 12; 9 Edw. I. (*Artic. Stat. Glouc.*).

Nos. 3, 4.

pria brief al Evesqe de Wyncestre a faire venir son clerk.—*Moubray*. Ceo nest pas resoun, puis qe vous estes apris qe Levesqe mesme est pleintif, par quei a doner garant a luy mesme a destreindre son adversare de venir en court de respoudre a luy nest pas resoun; par quei en defaute de luy nous prioms qe vous maundetiz al Metropolitan de faire venir son clerk.—*HILL*. Nous ne maundroms jammes brief al Metropolitan si nous ne puissoms trover defaute en Levesqe mesme.—Par quei il agarda brief al Evesqe de Wyncestre de faire venir son clerk, &c. A.D. 1346.

(3.)¹ § *Grene* leva une fine en tiele manere qe ij. ^{*Finis.*} hommes conissoint les tenementz, &c., estre le dreit ^[*Fitz.*, *Fynes*, 73.] le pleintif, et graunta qe ij. acres de terre qun tient a sa vie [et x. acres qun autre tient]² a sa vie, de lour heritage, et qe apres lour³ mort a eux duissent revertir, remeindreint al autre et a ses heirs, od garrantie.

(4.)⁴ § Un brief de Dower fut porte en Loundres. ^{*Dowerc.*} Le tenant voucha un foreine, par quei la paroule fut ^[*Fitz.*, *Essone*, 28.] ajourne en Baunk, [come lestatut voet. Et ore en Baunk]² le tenant fut essone.—Et chalaunge par *Sadel*. par tant qe cest jour et le jour qil voucha en Loundres est tout un jour en ley, et le pꝛoces a ore a comencer vers le vouche, par quei nent plus qe a mesme le jour qil voucha il pout aver este essone nent plus serra il a ore.—*HILL*. Sa apparaunce a cel jour luy toudra lessone, mes ore il ad jour par apparaunce. — Par quei lessone fuit ajugge,⁵ et ajourne.

¹ From H., and I.

² The words between brackets are omitted from I.

³ I., *sa*.

⁴ From H., and I., until otherwise stated.

⁵ I., *agarde*.

No. 5.

A.D. 1346. § Note that, in the city of London, a tenant
 Voucher. vouched one who was foreign to the city, and the
 record was caused to come into the Court of
 Common Pleas. And on that day the tenant was
 essoined, and exception was taken to the essoin on
 the ground that the Court had no other warrant
 than to make process against the vouchee, because
 the plea had come into this Court for no other
 purpose.—And, notwithstanding this, the essoin was
 allowed, and a day was given.

Right. (5.) § One J. Vyncent brought his writ of Right
 against one A., and demanded ten acres of meadow,
 on his own seisin, and laid the esplees as in
 herbage and other kinds of issues from meadow,
 amounting, &c. — *Richemunde* repeated the words of
 the count and denied them, and went out to imparl,
 and came back, and again repeated the count and
 denied the words. And then *Richemunde* denied
 tort, and force, and J.'s right absolutely, and J.'s
 own seisin, on which seisin he had counted absolutely
 as of fee and of right, and in particular of ten
 acres of meadow with the appurtenances in R.; and
 he repeated the whole of the count, and said A. will
 deny this by the body of his free man, one H. by
 name, who is here ready to deny it by his body,
 or in whatsoever way the Court shall adjudge, and
 should ill befall this same H. (which God forbid),
 he is ready to deny it by another, who knows the
 truth and can do so.—And A.'s champion was
 bareheaded, and with his sleeves unfastened, and his
 sleeves were turned up on his arms, and he had in
 his right hand a glove folded, and in each finger
 of the glove there was one penny, and he proffered
 the glove to the Court, but he did not throw it
 into the Court until the other party had joined the
 wager of battle.—The demandant prayed leave to
 imparl.—HILLARY. Certainly you may have it; but

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§ *Nota*¹ qun tenant, en la Cite de Loundres, voucha^{A.D. 1346.}
un forein, et le recorde fuit fait² vener en la comune Voucher.
place. Et a ceo jour le tenant fut essone, et lessone
challenge pur ceo qils navoint autre garraunt forqe
de faire procees vers le vouche, qar le plee est
venutz ceinz a nulle autre effecte.—Et lessone allowe,
non obstante, et adjourne, &c.

(5.)³ § Un J. Vyncent porta soun brief de Droit Droit.
vers un A.. et demanda x.⁴ acres de pree, de sa
seisine demene, et lia les esples come en herbage et
en autre manere dissue de pree, mountant, &c.—
Richm. defendi les paroules et rehercea le counte,
et issit denparler, et revient, et defendi, et rehercea
le count arremayn. Et donques *Richm.* defendi tort,
et force, et le droit J. tut attrenche, et sa seisine
demene, de quel seisine il counta tut outre come
de fee et de droit, nomement de x. acres de pree
od les appurtenantz en R. ; et rehercea tut le
counte, et ceo⁵ defendra il par le corps un son
franc homme H. par noun, qe cy⁶ prest est a
defendre le par son corps, ou⁷ par quanqe ceste
Court agardera, et si mesaviegne a mesme celuy H..
qe Dieu⁸ defend, prest est a defendre le par autre,
qe sciet et poet.⁹—Et le champioun fut deschevele,
et desmaunche, et ses maunches reverses en ses
braces, et avoit en sa mayn destre un gaunt plie,
et en chescun deye¹⁰ del gaunt un dener,¹¹ et profri
la gaunt a la Court, mes ne la getta pas a la Court
tauntqe lautre partie avoit rejoint.—Le demandaunt
pria conge denparler.—HILL. Vous averetz bien ; mes

¹ This report of the case is from
L., and C.

² C., fet.

³ From H., and I.

⁴ I., xx.

⁵ I., se.

⁶ I., si.

⁷ I., et.

⁸ I., Deu.

⁹ I., cy est et prest, instead of
sciet et poet.

¹⁰ I., day.

¹¹ H., dener.

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A.D. 1346. you must return this same day, without having any longer delay; for your champion must be ready at all times, since you are demandant.—Therefore he went out to imparl, and came back, and said, by *Birton* :—You see plainly how we have demanded ten acres of meadow (and he recited the whole of his count), whereupon, Sir, the tenant has appeared and has said, &c. (and he recited all that the tenant had said), and he tortiously denies our right absolutely, and our own seisin of which we have counted absolutely as of fee and of right, and in particular in respect of ten acres of meadow with the appurtenances in R., and tortiously because we were ourselves seised thereof in our demesne as of fee and of right, in time of peace, in the time of our Lord the King that now is (whom God preserve), and took the esplees, &c. And the demandant is ready to deraign that which he has said by the body of his free man, one C. by name, who is here ready to deraign it by his body, or in whatsoever way the Court shall adjudge, and if any ill shall befall this same C. (which God forbid) he is ready to deraign it by another who knows the truth and can do so.—And the demandant's champion threw forward a glove folded.—And then the defendant's champion threw forward his glove.—And the Court accepted both.—WILLOUGHBY and HILLARY said to the demandant and to the tenant that they must find pledges to carry out the battle, and also that neither of the champions should injure or molest the other either secretly or openly. And so they did.—And, after the pledges had been found, the gloves were redelivered to the champions, to each of them his own glove, with the pennies which were therein.—And the parties were told that they must pay strict attention to the champions, and that they must keep their day on the morrow of All Souls, but this was

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il covient qe vous retournez a mesme cest journe, A.D. 1346. saunz pluis longe delaie avoir; qar vostre chaumpion serra tutefoitz prest, puis qe vous estes demandant. —Par quei il issist denparler, et revient, et dit, par *Birtone* :—Vous veietz bien coment nous avoms demande x. acres de pree—et rehercea tut son counte—a quei, Sire, le tenant est venu et ad dit, &c.—et rehercea quantqil avoit dit—et dit qe atort defend¹ il nostre droit tut attrenche, et nostre seisine demene, de quel nous avoms counte tut outre come de fee et de droit, nomement de x. acres de pree od les appurtenantz en R., et pur ceo atort qe nous mesmes fumes seisis de cele en nostre demene come de fee et de droit, en temps de pees, en temps nostre seignur le Roi qore est, qe Dieu garde, les esplez prist, &c. Et ceo est il prest a deresnere par le corps un son fraunk homme C. par noun, qe cy prest est, &c., a deresner le par son corps, ou par quanqe ceste Court agardera, et si mesaviegne a mesme cesti C., qe Dieu² defende,¹ prest est a deresner le par autre qe sciet³ et poet.—Et cel chaumpioun getta avant un gaunt plie.—Et adonques le chaumpioun le defendant getta avant le soen.⁴—Et la Court resceut lun et lautre.—WILBY. et HILL. disoient al demandant et tenant qil les covient trover plegges a parfournier la bataille, et auxi qe nul de les chaumpiouns fra mal ne moleste en prive ne en apperte a autre. Et issi fesoient.—Et, apres qe les plegges furent trovez, les gautes furent rebailles a les chaumpiouns, a chesqun soun gaunt propre, od les deners qe leinz furent.—Et fut dit as⁵ parties qils donassent bon garde as les chaumpiouns, et qils gardassent⁶ lour jour a lendemeyn des Almes

¹ H., defent.² I., deu³ I., seet.⁴ H., seon.⁵ I., a les.⁶ H., gardereint.

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A.D. 1346. without causing the champions to make oath as they did in the Northamptonshire Eyre.—And it was said that the five pennies which were in each glove would be offered by the champions.

Waste. (6.) § The Earl of Hereford brought a writ of Waste against the Countess of Hereford, and the inquest of waste was taken before Justices of *Nisi prius*, and returned last Term, as there appears.¹ And then they prayed judgment on the verdict found. And they were adjourned until now, by reason of difficulty, on the verdict. And now the Countess was essoined.—*See* the judgment.—And exception was taken by *Notton* that an essoin does not lie after verdict.—And nevertheless *HILLARY* caused the essoin to be adjudged, and a day to be given,² &c.

Waste. § Note that after a verdict had passed on a writ of Waste, by reason of difficulty with respect to the judgment, the parties had a day from one Term to another, and on the day which they had the defendant was essoined.—*See* the judgment.—And the essoin was allowed, &c.

Assise of Novel Disseisin. (7.) § In an Assise of Novel Disseisin the tenant challenged the array on the ground that it was made by the bailiff of a liberty who was a maintainer in the matter, and the contrary of this was found by trial. And afterwards he challenged the polls, and he was put to state a cause why he challenged, before the panel was examined. But on the challenge of the other party cause was not shown until the panel was examined. And the reason was that a challenge had been given by the tenant in order to abate the whole array, &c.

Assise of Darrein Presentment. (8.) § An Assise of Darrein Presentment was brought. Three triers were sworn, and one man was

¹ See Easter, 20 Edw. III., No. 65.

² See Mich., 20 Edw. III., No. 33.

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saunz faire les chaumpiouns jurer come ils fesoient A.D. 1346. en le Eire de Northamtone.—Et fut dit qe les v. deners qe furent en chesqun gaunt serront offertz par les chaumpiouns.¹

(6.)² Le Counte de Herford porta brief de Wast ^{Wast.} vers la Countesse, et lenquest de wast pris devant ^[Fitz., Errone, 29.] Justices de *Nisi prius*, et retourne le dreyn terme, *ut patet*. Et adonques sur le verdit trove il prierent jugement. Et adjourne tanqe a ore, pur difficulte sur le verdit.—Et ore la Countesse fuist essone. *Vide judicium*.—Et chalange par *Nottone* qil ne gist pas apres verdit.—Et *non obstante* HILL. le fist ajugger, et ajourner, &c.

§ *Nota*³ qe, apres verdit passe sur un brief de Wast. Wast, pur⁴ difficulte del jugement, les parties avoint jour dun terme en un autre, et al jour qils avoint le defendant fuit essone.—*Vide judicium*.—Et fuit allowe, &c.

(7.)⁵ § En Assise de novele disseisine le tenant Assise de chalengea larraye pur ceo qe il fust fait par le ^{Novele Disseisine.} baillif dune fraunchise qe fut meynteinour de la ^[Fitz., Challenge. 116.] bosoigne, et le contraire de ceo fut trie. Et apres il chalengea les testes, et fut mys a dire cause pur quei, avant le panel peruse. Mes al chalaunge del autre partie cause ne fut pas moustre tanqe le panel fut peruse. Et ceo fut pur ceo qe le chalaunge fust done par luy dabatre tut larraye, &c.

(8.)⁶ § Assise de drein presentement porte. iij. Assise de triours furent jurez, et un homme chalange, et ^{drein presentement.}

¹ The words serront offertz par les chaumpiouns are omitted from I.

² From H., and I., until otherwise stated.

³ This report of the case is from L., and C.

⁴ L., sur.

⁵ From H., and I.

[Fitz., Trial, 68.]

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A.D. 1346. challenged, and upon that challenge they were charged, and they could not agree, for two of them were of one opinion, and the third of the contrary opinion. Therefore the Justices caused two who had been challenged, that is to say, one on the one side, and the other on the other side, to be triers with the others, without accepting the trial in accordance with the opinion of the majority who were in agreement. Therefore the five were charged with regard to the same challenge, and three of them were of one opinion, and the other two of the contrary opinion. And, without acceptance of the trial in accordance with the opinion of the three as being the majority, the five were commanded to abide in one chamber, without eating or drinking, until they agreed. And on the morrow they had agreed, and as the result of their trial they rejected the man who had been challenged, and also all the others who were included in the panel. Therefore, by reason of the challenges which were given against the triers by the parties objecting to their inclusion in the inquest, these challenges as against two were tried by the three others, and the two were rejected; and of the three one was tried by the two others, and was accepted as a good juror to be upon the inquest. And by this one, who was so accepted as a good juror, and by one of the two remaining triers, the other of those two was tried and accepted as a good juror. And the one remaining was tried by the two who had been tried and accepted as good jurors, and rejected because he had taken [a bribe] as was alleged when he was challenged. Therefore the two who had been tried and accepted as good jurors were sworn as to the principal matter at issue. And the plaintiff prayed a *Nisi prius*; and he could not have it because part of the inquest had been sworn in this Court, and

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sur cele¹ chalaunge eux charges, qe ne purroient A.D. 1346.
 acorder, qar les deux furent dune assent, et le terce
 al encountre. Par quei les Justices fesoient deux qe
 furent chalanges, saver lun² del une part et lautre³
 del autre part, destre triours od les autres, saunz
 prendre le triement solonc ceo qe la greindre partie
 furent en un. Par quei les v. furent charges sur
 mesme le chalange, et les iij. furent dun assent, et
 les ij. al encountre. Et, saunz resceivre le triement
 de les iij. pur ceo qils furent la greindre⁴ partie,
 ils furent comaundez a demurer en une chaumbre
 saunz manger ne boire tanqils furent en un. Et a
 lendemeyn ils furent en un, et trierent celuy qe fut⁵
 chalange hors, et auxi touz les autres qe furent en
 le panel. Par quei, pur le chalange qe fut done
 vers les triours par les parties qile ne serront en
 lenqueste, ces chalanges vers ij. furent trieiz par les
 iij. et oustes; et par les ij. de les iij. fust le terce
 trie qil fust bon destre en lenqueste. Et par celi
 qe fust issi trie et lautre de les ij. triours fut un
 deux trie pur bon. Et par eux deux qe furent trieiz
 pur bons fut lautre trie⁶ pur ceo qil avoit pris
 solonc ceo qil fut chalange. Par quei les ij. qe
 furent trieiz pur bons furent sermentez⁷ sur le
 principal. Et le pleintif pria un *Nisi prius*; et ne
 pout aver, pur ceo qe partie del enqueste est jure

¹ H., son.² The words *saver lun are*
omitted from I.³ *lautre* is omitted from I.⁴ I., *greignure*.⁵ H., *ceo fut*.⁶ H., *trete*.⁷ H., *surmountes*.

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A.D. 1346. therefore the case must be determined in this Court.

—And, moreover, SHARSHULLE, before whom the *Nisi prius* would have had to be granted, said that he would not grant it by reason of the great dispute which might arise on the great maintenance which there had been on both sides.—Therefore the party had a writ to the Sheriff to cause to come, in addition to the two who had been sworn, *duodecim tales*, &c.

Quare impedit.

§ A man brought a *Quare impedit*¹ against John Seneloun, in which they were at issue, and, on the day on which the jury came to give its verdict between the parties, *R. Thorpe* produced a letter under the Privy Seal, reciting that a writ was pending between John de Seneloun and another person, and that the King had a writ pending, in respect of the same church, against J. de Seneloun and another person, and another writ against that other person, and commanding the Justices not to take the inquest until these writs had been determined.—*Husc.* The Statute² purports that you shall not omit to act in accordance with the law by reason of any command from the King which comes under the Great Seal or the Little Seal, and you see plainly how this command is, in its proper acceptation, contrary to the law, and therefore it is not right that by his command we should be delayed of our action, and, if the King has any right in the matter, nothing will be lost to him.—*R. Thorpe.* We have seen a case in which there was a plea of land between parties, and in which the King sent his writ to the effect that the land was in

¹ Though in this report the action is described as a *Quare impedit*, and in the report next preceding as an Assise of Darrein Presentment, the matter relating to the jurors in

both seems to show that they are independent reports of the same case.

² 2 Edw. III., c. 8; 14 Edw. III., St. 1, c. 14.

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ceins, par quei ceins covient qil¹ soit² termine.³—Et A.D. 1346. auxi Schs., devant qil duist aver graunte⁴ ne le voleit graunter pur graunde⁵ debat qe poait avenir sur le graunde⁵ meyntenaunce qil y ad dune part et dautre.—Par quei il avoit brief al Vicounte de faire venir, *præter*⁶ les deux qe furent jurez, xij. *tales*, &c.

§ Un⁷ homme porta *Quare impedit* vers Johan Seneloun, ou ils furent a issue, et, al jour qe lenqueste vint de passer entre les parties, *R. Thorpe* mist avant une lettre de south la prive seal, reherceaunt coment un brief fuit pendant entre J. de Seneloun et un autre, et coment le Roi avoit un brief pendant, de mesme leglise, vers J. de Seneloun et un autre,⁸ et un autre brief vers lautre, et maunda a les Justices qils ne duissent mye prendre lenqueste tanqe les briefs⁹ fuissent terminetz.—*Huse*. Lestatut voet qe pur maundement du Roi qe vint south la grand¹⁰ seal ou south la petit seal qe vous ne lesseretz mye de faire la lei, et vous veietz bien coment cest maundement si est proprement countre la lei, qar il nest pas resoun qe par sa maundement qe nous soioms delaye de nostre accion, et, si le Roi en ad¹¹ dreit, rien luy depert.—*R. Thorpe*. Nous avoms viewe qe plee ad este entre parties de terre, et qe le Roi ad maunde soun brief qe la terre

¹ I., qils.

² I., soient.

³ I., terminez.

⁴ I., cest graunt.

⁵ I., graunt.

⁶ *præter* is omitted from I.

⁷ This report of the case is from L., and C.

⁸ The words et un autre are omitted from C.

⁹ MSS., Eyres.

¹⁰ C., grant.

¹¹ L., nad, instead of en ad.

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A.D. 1346. his hand, and that the Justices were not to hold plea thereof, and in that case they would not proceed; in this way also it seems that you ought to act in this case.—HILLARY. I believe that in that case the writ was allowed contrary to law and right, and, if such a writ came to us, we ought to disallow it. (But *Quere.*) And we do not see any mischief even though the inquest be taken.—Therefore the jury was called.—And the jurors were challenged on the ground that they had taken bribes.—And four triers were elected, and were sworn, and those four, together with a fifth who was not challenged, were sworn to try whether the others had taken bribes, and said that they had all taken bribes, and they were so marked. And then the one who had not been challenged either on one side or on the other, and two of the four triers were charged as to whether the other two triers had taken bribes or not, and said that they had taken bribes, and they were withdrawn. And then those two who had been withdrawn and who had taken bribes, together with a third who had been challenged, were charged as to whether the other two triers had taken bribes (because, as they had been challenged, they could not be in the panel without being tried), and said that they had not taken bribes from the party.—And therefore three stood as jurors, and the Sheriff was commanded to cause to come *tot et tales*.—And so note that after they had been withdrawn the two triers could say whether their companions had taken bribes.—And, before this, because the triers could not agree with regard to the challenges, they were commanded to prison, and there remained all night, &c.

False Judgment. (9.) § John de Loundres, upholsterer, and E. his wife sued a writ of False Judgment against Herbert St. Quintyn, and the suitors [of the Court of Ancient

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est en sa mein, et qils ne tiendrent mye plee de ceo, A.D. 1346. et ils ne voleint plus avant aler ; auxint semble il qe vous deivetz faire¹ en ceo cas.—HILL. Jeo crey qe ceo fuit allowe countre ley et resoun, et si tiel brief nous vint nous² le duissoms desallowere.—*Sed Quere.*—Et nous ne veioms mie meschief tut soit lenqueste pris.—Par qai lenqueste fuit demande.—Et les jurours furent chalenges touz de ceo qils avoint pris forreprise.—Et iiij. triours furent eslieux, et furent jures, et les iiij., ensemblement ove le v^{te}, qe ne fuit pas chalenge, furent jures de trier si les autres avoint pris, qe disoint qils avoint touz pris, et furent merches. Et donques celui qe ne fuit pas chalenge de lune part ne de lautre, et les deux triours si furent charges si les autres deux triours avoint pris ou noun, qe disoint qils avoint pris, et furent tresetes. Et puis ceux ij. qe furent tresetes et qavoient pris, ensemblement ove le terce. qe fuit par chalenge, furent charges si les autres ij. triours avoint pris, pur ceo qils ne purroient mie estre en le panel, la ou ils furent chalenges, sanz estre trie, et disoint qils navoint mye pris de la partie.—Et pur ceo les iiij. esturrent, et comaunde fuit au Vicounte de faire *vener tot et tales.*—*Et sic nota* qe apres qils furent tresetes les ij. triours qils dirrount si lour compaignouns avoit pris.—Et avant, pur ceo qe les triours ne purreint mye acorder des chalenges, ils furent comaundetz a la prisoun, et la demurent tut la nuyte, &c.

(9.)³ § Johan de Loundres, tapisier, et E. sa femme suyrent un brief de faux jugement vers Herbert Seynt Quintyn, et les suters porterent

Faux
Jugement.
Fitz.
Faux
Jugement,
11.

¹ L., fere.

² nous is omitted from L.

³ From H., and I., until otherwise stated.

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A.D. 1346. Demesne] brought the record. And because the original writ was not sent, the parties were not admitted to assign errors. Therefore a writ was awarded to cause a fuller record to come.

False Judgment. § Note that a writ of False Judgment was sued in this Court (the Common Bench) upon a judgment which was given in the Court [of Ancient Demesne] of Cookham. And the record was sent into the Bench, and the party wished to assign errors in the record. And because the original writ was not there, they would not admit him to assign error, but granted a writ to distrain the bailiffs to send the original writ.—But it is otherwise on a writ of Error on a judgment given in the Court of Common Pleas, unless variance is assigned between the original and the record, &c.

Account. (10.) § William de Midelton sued a writ of Account. The defendant denied the receipt of the moneys as alleged, and it was found that he had been the plaintiff's receiver. Therefore judgment was given that the defendant must account. Therefore he said, before the auditors, that he had paid the plaintiff in full in twenty different counties, to wit, so much in one county, and so much in another. As to this the plaintiff tendered his wager of law that the defendant did not pay the moneys. And thereupon he had a day now. And the defendant said that the plaintiff had released to him all manner of actions, personal and real, in respect of any account whatsoever. And the release purported to be dated after the wager of law. And the defendant made *profert* of the deed of release, and prayed that it might be allowed to him.—*Thorpe*. You see plainly that you (the defendant) accepted the wager of law before the auditors, by reason whereof we are at final issue before you (the Court); therefore you

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le recorde. Et pur ceo qe loriginal ne fut maunde A.D. 1346. ils ne furent pas resceu dassigner erreur. Par quei fut ajugge brief de faire venir plus pley n recorde.

§ *Nota*¹ qun brief de Faux Jugement fuit suy ^{Faux} ~~Jugement.~~ ceinz dun jugement qe fuit done en la Court de Cokham. Et le recorde fuit maunde en Bank, et la partie voleit aver assigne erreur en le recorde. Et, pur ceo qe loriginal ne fuit pas la, ils ne luy voleint pas resceivre, mes granterent un brief a destreindre les baillifs de maundre le brief original. —*Sed secus est* en brief Derroure de jugement done en la comune place, si variaunce ne soit assigne entre loriginal et le recorde, *et cetera*.²

(10.)³ § William de Mideltone suist un brief ^{Acompte.} Dacompte. Le defendant dedit la resceite, et fut trove qil fut son resceivour. Par quei il fut agarde dacompter. Par quei, devant les auditours, il dit qil avoit paie al pleintif bien en xx. countes, saver, taunt en un counte et taunt en un autre. A quei le pleintif tendi sa ley qil ne les paia point. Et sur ceo avoit jour a ore. Et le defendant dit qe le pleintif avoit relese a luy totes maneres daccions personels et reals de quecunqe acompte. Et ceo purportaunt date puis la ley gage. Et mist avant le fait et pria qe ceo li fust allowe.—*Thorpe*. Vous veietz bien coment la ley fut gage par vous devant les auditours, par cause de quel nous sumes a final issue devant vous; par quei a ore de pleder

¹ This report of the case is from L., and C.

² The words *et cetera* are omitted from C.

³ From H., and I., until otherwise stated. The report may possibly be in continuation of No. 79 in Easter Term (above, p. 448).

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A.D. 1346. (the defendant) shall not be admitted now to plead a release of all manner of actions and thereby waive the wager of law which heretofore you accepted.—SHARSHULLE. Will you abide by the wager of law or not?—The defendant said that he would not, but that he relied upon the release.—SHARSHULLE. Then, at any rate, we discharge William of his wager of law. And it seems that this release is not of such force as to bar him: for judgment has been given that you (the defendant) must account, and that upon verdict, and where judgment has been given with regard to him the action is in that respect determined; therefore a release of all manner of actions, executed since the action was determined by judgment given for the plaintiff, does not deprive him of the right to have that judgment executed.—STOUFORD. If it were a case in which there was not any other judgment to be rendered but that which was rendered on the verdict, that which SIR WILLIAM SHARSHULLE has said would, perhaps, be right; but when auditors have been appointed, and the defendant remains in arrear, he will be charged by judgment with that sum which is in arrear; therefore the law gives him an answer to show that he ought not to be charged with that sum; for if he wished to make *profert* of an acquittance executed since the wager of law, he would be admitted to do so, and for the same reason a general acquittance.—WILLOUGHBY to Thorpe. If you will abide judgment on the point we shall hold the deed to be not denied by you; and therefore consider.—Thorpe. We understand that for the very same reason for which he will now be admitted to allege a general release after we have previously come down to another issue, for that same reason, even though we do deny this deed, he will on another day produce another acquittance, and will so delay us for ever.—

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un relees de totes maneres daccions et par taunt A.D. 1346.
weyvant la lei quel autrefoitz receustes ne serretz
resceu. — SCHARS. Volez la lei ou nient? — *Le*
defendant dit qil ne voleit pas, mes se tint sur le
relees. — SCHARS. A meyns dounques nous deschargeoms
W. de sa lei. Et il semble qe cel relees nest pas
de tiel force qe luy forclost: qar vous estes ajugge
dacompter, et ceo par verdit, et ceo qe luy est
ajugge laccion de cele est termine; par quei relees
de totes maneres daccions puis qe par jugement
taille pur luy laccion est termine ne luy toude pas
qe cel jugement ne serra execut. — STOUF. Si en
cas y ny¹ avereit autre jugement a rendre mes cel
qe fut rendue sur le verdit il serreit resoun par
aventure ceo qe MONSIRE WILLIAM SCHARS. ad parle;
mes quant auditours sount assignez et il demoert
en arrere il serra charge par jugement de cele
summe; par quei a moustrer qil ne serra pas de
cele somme charge lei luy doune respons; qar sil
vousist mettre avant acquittance fait puis la lei gage
il serreit resceu, et par mesme la resoun acquittance
generale. — WILBY. a *Thorpe*. Si vous voletz demurer
en point de jugement nous tendrons le fait nent
dedit de vous; et pur ceo avisetz vous. — *Thorpe*.
Nous entendoms qe par mesme la resoun qil
avendra a ore dallegger un reles general puis qe
nous fumes avant descendu en autre issue, par
mesme la resoun, mes qe nous dedioms ceo
fait, il mettra a autre jour une autre acquittance,
et issi nous delaiera il a touz jours. — HILL. Nanil

¹ H., ne.

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A.D. 1346. HILLARY. Certainly not; if you deny the deed now, he will never afterwards be admitted to plead another deed in bar, because both pleas are of the same kind; therefore deliver yourself; or would you rather abide judgment at the peril which attaches thereto?—Therefore *Thorpe* waived the point, because the opinion of the Court was that the defendant might be admitted to plead the release. Therefore *Thorpe* denied the deed, and thereupon they were at issue.—And *Thorpe* prayed a *Nisi prius* because the defendant could not be essoined on the next day. And this was granted to him.—And the defendant prayed to be let out on mainprise.—And his prayer was counterpleaded, because in this same plea he appeared in virtue of a *Capias*, and denied the receipt of the moneys, and found mainprise, and made default on the next day, and therefore the inquest was taken by his default; and the finding was for the plaintiff, and therefore judgment was given that he must account, and consequently mainprise was then broken by him, and therefore he is not now capable of being held to mainprise.—And, because it is now a new issue which is to be tried, and one different from that which was then joined, it was adjudged that he was now capable of being held to mainprise, and he was let out on mainprise, &c.

Account. § The defendant in a writ of Account said that he was ready to account, and auditors were appointed for him. And he said, before the auditors, that he had paid the money to the plaintiff by tale, and made *profert* of the tallies in respect thereof. And the plaintiff said that he had not received any money, and was ready to make that statement good by his law. And he had a day in this Term to perform his law. And now the defendant came and said that the person who had brought the writ had released to him, since

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certes ; si vous dedietz le fait a ore, il navendra A.D. 1346.
 jammes apres a pleder par autre fait en barre, pur
 ceo qe lun plee et lautre sount de mesme condicion ;
 par quei deliveretz vous ; ou voilletz demurer a
 peril qe appent ?—Par quei *Thorpe* le weyva, pur
 ceo qe oppinion de Court fut qil avendra. Par quei
 il dedit le fait. Et sur ceo furent a issue.—Et
Thorpe pria le *Nisi prius* puisque le defendant ne
 poait al procheyn jour estre essone. Et ceo luy fut
 graunte.—Et la partie luy pria destre lesse a
 meinprise.—Et countreplede pur ceo qe en mesme
 cel plee il vient par le *Capias*, et dedit la resceite,
 et trova meinprise, et al prochein jour il fist defaute,
 par quei par sa defaute lenqueste fust pris ; et trove
 pur le pleintif, par quei il fuist ajugge dacompter,
 et par taunt la meynprise par lui adonques debruse,
 par quei a ore il nest pas meynpernable.—Et, pur
 ceo qe cest a ore a trier une novele issue, et autre
 qe adonques fut joint, fut agarde qil fust a ore
 meynpernable, et fuist lesse a meynprise, &c.

§ Le¹ defendaunt en brief Dacompte dist qil fuist Accompte.
 prest dacompter, et auditours luy furent assignes.
 Et devant les auditours il dist qil luy avoit paia
 les deners countes, et de ceux moustra avant tailles.
 Et le pleintif dist qil ne resceut nulles deners ; prest
 a faire par sa lei. Et avoit² jour tanqa cest terme
 de faire sa ley. Et ore vint le defendant, et dit qe
 celui qe porta soun brief si avoit relese a luy, puis

¹ This report of the case is from L., and C. | ² C., avoint.

No. 11.

A.D. 1346. that time, all manner of actions personal and real. And, said the defendant, we demand judgment whether he can have an action.—And the plaintiff tendered his law.—*Skipwith*. You ought not to be admitted to perform your law, because you have released at a later time, and since the law was waged.—*R. Thorpe*. You see plainly that judgment was given that he must account, and so a judgment was given against him, so that, if in accounting he could not discharge himself by showing that we had received the money, or made an acquittance to him, he would be charged with the sum, and so at that time he was by law ousted from any counterplea to our action, and his only course was to discharge himself of the sum in accounting, and therefore we do not understand that he ought to be admitted to use this deed.—*WILLOUGHBY*. He will not be admitted to allege any deed of an earlier time, but he alleges that this deed was executed afterwards, and so, since you have released your right to him who is a party to you by the original writ, it is right that he should be able to use the deed; for, still further, if you had not appeared on the day which you had to perform your law, you must have been non-suited, so that, although judgment has been given for him to account, he is all the time a party to you in Court, and therefore answer as to your deed.—*R. Thorpe*. We tell you that this is not our deed, and we pray a *Nisi prius*, because the person who makes *profert* of the deed cannot be essoined.—And the *Nisi prius* was granted to him on the first day.

Trespass. (11.) § A writ of Trespass was brought, in respect of a trespass committed in London, against certain

No. 11.

cel temps, totes manere¹ daccions² personels et reals. A.D. 1346. Et demandoms jugement sil pout accion aver.—Et le pleintif tendi sa lei.—*Skip*. Vous ne devez estre resceu a vostre ley, .qar vous avietz relese de puisne temps, puis la ley gage.—*R. Thorpe*. Vous veietz bien coment il fuit ajugge dacompter, issint un jugement done countre luy, issint qe, si sur laccompter il ne se poet mie descharger qe nous avoms resceu les deners, ou a luy fait acquitaunce, qil serreit charge de la somme, issint qe a cel temps par ley il fut ouste de countrepleder nostre accion, mes soulement a soy descharger sur laccompter de la somme, par qai nous nentendoms mie qil deit estre resceu de user ceo fait.—*WILBY*. Il ne serra pas resceu dallegger nulle fait de temps devant, mes il allegge ceo fait fet puis, issint, quant vous avietz relese vostre dreit a luy qest partie a vous par loriginal, il est resoun qil puisse³ user⁴ le fait; qar unqore si vous ne venissetz mie al jour qe vous avietz de faire vostre ley, vous duissetz aver este nounsuy, issint qe tut soit il ajugge dacompter, il est, tut temps partie en Court a vous, par qai responez a vostre fait.—*R. Thorpe*. Nous vous dioms qe ceo nest pas nostre fait, et prioms *Nisi prius*, qar celuy qe mette avant le fait ne poet mie estre essone.—Et ceo luy fut grante al primer jour.

(11.)⁵ § Brief de Trespas porte, de trespas fait Trespas. en Loundres, vers certeyns Lumbards,⁶ de baterie⁷

¹ sic in both MSS.

² C., daccion.

³ L., poet.

⁴ C., useer.

⁵ From H., and I., but corrected by the record, *Placita de Banco*, Trin., 20 Edw. III., R^o 78. It

there appears that the action was brought by Roger Caunville against Henry Parsout' Lumbarde, and John Parsout' Lumbarde.

⁶ I., Lounbards.

⁷ The words de baterie are omitted from I.

No. 12.

A.D. 1346. Lombards, with an allegation of battery and goods carried off.—*Birton*. As to the goods carried off, Not Guilty. And as to the battery we tell you that the plaintiff came into the shop of the defendants' master, whose apprentices they were, and committed an assault upon them, and injured them, and the harm which he received was by reason of his own assault, and in order to save their lives; and we do not understand that by reason of that battery he can assign tort in their persons.—*Skipwith*. You came with force and arms, making your own assault, and you beat us, *absque hoc* that it was by reason of our assault; ready, &c.—And the other side said the contrary.

Elegit. (12.) § One recovered damages on a writ of Waste against Richard de Radecliffe in the county of York, and the plaintiff said that Richard had nothing in that county whereof he could have execution, and he prayed an *Elegit*, to be directed to the Sheriff of Lancaster, in which county

No. 12.

et des biens emportez.¹—*Birtone*. Quant as biens A.D. 1346. emportez, de riens coupable. Et quant al baterie nous vous dioms qe le pleintif vient en la shope lour mestre qi apprentiz ils furent, et fist assaut a les defendantz, et les naufra, et le mal qil resceut ceo fust de son assaut demene en sauvaunce de lour vies; et nentendoms pas qe de cele baterie il poait tort en lour persones assigner.²—*Skip*. Vous venistes a force et armes, et de vostre assaut demene, et nous batistez, saunz ceo qe fut de nostre assaut³; prest, &c.—*Et alii e contra*.⁴

(12.)⁵ § Un recoveri damages en un brief de *Elegit*.
Wast vers Richard de Radecliffe en le counte *[Fitz.,*
Deverwyke, et le pleintif dit qe Richard navoit *Proses,*
rien en cel counte dount il poait execucion aver, *43.]*
et pria le *Elegit* al Vicounte de Lancastre, en quel

¹ The declaration was, according to the record, "quod prædicti Henricus et alii . . . in ipsum Rogerum, apud Londonias, in Warda de Cordewanerestrete, in parochia Sancti Benedicti Sherhog, vi et armis . . . insultum fecerunt, et ipsum verberaverunt, vulneraverunt, et male tractaverunt, et bona et catalla sua ad valentiam, &c. [quadraginta solidorum] ceperunt et asportaverunt."

² The plea of the defendants was, according to the record, "quod prædictus Rogerus. una cum aliis incognitis, . . . venit ad shopam cujusdam Johannis Adam, magistri sui, et ipsi cum gladiis et cultellis in ipsos ibidem insultum fecerunt, et ipsos verberaverunt, et vulneraverunt, per quod ipsi pro morte sua evitanda se versus ipsos defendebant, eo quod mortem alio modo evadere non potuerunt, et, si aliquod

"malum prædicto Rogero ad tunc evenit, hoc fuit in defensione corporum suorum pro morte evitanda, &c., et ad insultationem ipsius Rogeri, unde petunt judicium si prædictus Rogerus actionem de transgressionem versus eos ratione prædicta, habere debeat, &c."

³ The words de nostre assaut are omitted from I.

⁴ Roger's replication, upon which issue was joined, was, according to the record, "quod prædicti Henricus et Johannis fecerunt ei prædictam transgressionem contra pacem, &c., et ex injuria sua propria, et non causa prædicta."

The *Fenire* was awarded, and mainprise was accepted for the defendants, but nothing further appears on the roll.

A like action against the same defendants, with like pleadings, was brought by John Fox.

⁵ From H., and I.

No. 13.

A.D. 1346. Richard had assets.—HILLARY. Have you sued any writ to the Sheriff of York?—*The Plaintiff*. No, Sir; for Richard has nothing in that county.—HILLARY. Until we are apprised by a Sheriff's return that he has nothing there, we shall not grant you an *Elegit* in the other county. Therefore sue a writ to the Sheriff of York, if you will.—And he did so, &c.

*Quare
impedit.*

(13.) § The King brought his *Quare impedit* against one Laurence de St. Martin, and counted that he hindered the King from presenting to the church of Newton, and tortiously for that one A.¹ was seised of the advowson as of fee and of right, and presented. And he made the descent of the advowson from A. to B.¹ and C.¹ as to two daughters and one heir, and alleged that a composition was made between them to the effect that B. should present on the first voidance, and C. on the second, and so on alternately for ever. And he said that on the first voidance B. presented, and that the church afterwards became void, and that thereupon B. again presented, and that this was in C.'s turn, and that on another voidance next after that B. presented as in her own turn, on the death of whose presentee the church is now void. And he made the descent of B.'s purparty of the advowson to present in turn from B. to the defendant by successive stages.¹ And from C.¹ he made the descent of her purparty to Oliver de Ingham, and from him to two daughters, and from one of those daughters to one Mary, who is under age and in the King's wardship. And after the death of Oliver all his lands were seized into the King's hand, and so it belongs to him to present, &c.—*Derworthy*. Sir,

¹ For the names and for the facts alleged in the declaration, see p. 505, note 6.

No. 13.

counte il ad assetz.—HILL. Avetz rien suy al A.D. 1345. Vicounte de Everwyk?—*Le Pleintif*. Sire, nanil; qar il nad rienz en cel counte.—HILL.¹ Tanqe nous soioms apris par retourn de Vicounte qil nad rienz, ne vous grauntroms pas *Elegit* en lautre counte. Par quei suetz al Vicounte Deverwyke, si vous voletz.—*Et sic fecit, &c.*

(13.)² § Le Roi porta son *Quare impedit* vers un Laurence Seint Martyn, et counta qil luy destourba a presenter al eglise de Newetone, et pur ceo atort qun A. fust seisi del avoweson come de fee et de droit, et presenta. Et fist la descento del avoweson de A.³ a B. et a C. come as deux filles et un heir, et coment composicion se prist entre eux qe B. presentera al primere voidance, et C. a la secunde, et issi entrechaungeablement a touz jours. Et dit qa la procheine voidance B. presenta, et apres⁴ leglise se voida, par quei B. presenta, et ceo en le tourn⁵ C., et al autre voidance procheine apres cele B. presenta come en son tourn demene, par qi mort la eglise est ore voide. Et fist la descente de B. de sa purpartie del avoweson a presenter par tourn al defendant par degrees. Et de C. il fist la descente de sa purpartie a Oliver de Ingham, et de luy a deux filles, et de lune fille a une Marie, qest deinz age et en la garde le Roi. Et apres la mort Oliver touz ces terres furent seisis en la meyn le Roi, et issi appent a luy a presenter, &c.⁶—*Ier*. Sire, vous

¹ HILL. is omitted from I.

² From H., and I., but corrected by the record, *Placita de Banco*, Trin., 20 Edw. III., R^o 238, d. It there appears that the action was brought by the King against Laurence de St. Martin in respect of a presentation to the church of Nywetone (Newton, Dorset).

³ The words de A. are omitted from H.

⁴ The words et apres are omitted from I.

⁵ I., temps.

⁶ The declaration was, according to the record, "quod quidam Walterus Walerand fuit seisitus de manerio de Niwetone, cum pertinentiis, ad quod advocatio ecclesiæ predictæ pertinuit, . . . tempore Regis Johannis progenitoris domini Regis nunc, qui

No. 13.

A.D. 1346. you see plainly how he has spoken of a composition made between B. and C., and has supposed that this turn would belong to the heirs of C., and therefore it belongs to the daughter of Oliver who is living as much as to Mary; and by your writ it is supposed that by reason of Mary's non-age it belongs to the King to present, and your declaration proves that it belongs to the daughter of Oliver who is living to present as much as to Mary, and therefore

" ad eandem presentavit quendam
 " Nicholaum de Suttone, clericum
 " suum, qui ad ejus presentationem
 " fuit admissus et institutus, . . .
 " qui quidem Walterus postea,
 " tempore ejusdem Regis Johannis,
 " dedit medietatem manerii præ-
 " dicti, cum pertinentiis, cuidam
 " Bartholomæo de Insula, et aliam
 " medietatem cuidam Alexandro
 " Cheverel separatim tenendas sibi
 " et heredibus suis de eodem
 " Waltero et heredibus suis in
 " perpetuum, reservando sibi et
 " heredibus suis advocacionem
 " prædictam. Et de ipso Waltero
 " descendit advocatio prædicta
 " quibusdam Cæcilie, Albredæ, et
 " Johannæ, ut filiabus et heredibus,
 " &c. Et de ipsa Cæcilia descendit
 " propars sua advocacionis præ-
 " dictæ cuidam Johanni ut filio et
 " heredi, &c. Et de ipso Johanne,
 " quia obiit sine herede de se,
 " resortiebatur jus propartis suæ
 " prædictis Albredæ et Johannæ, ut
 " amitis et heredibus ejusdem
 " Johannis, sororibus et heredibus
 " prædictæ Cæcilie matris prædicti
 " Johannis, inter quas Albredam
 " et Johannam postmodum con-
 " venit quod in proxima vacatione
 " dictæ ecclesie tunc accidenti præ-
 " fata Albreda et heredes sui præ-
 " sentarent ad eandem clericum
 " suum, et in secunda vacatione

" ejusdem ecclesie extunc accidenti
 " præfata Johanna et heredes sui
 " presentarent clericum suum ad
 " eandem, et sic præfata Albreda
 " et heredes sui, et præfata Johanna
 " et heredes sui alternatim et
 " successive presentarent ad
 " eandem in perpetuum, quæ
 " quidem Albreda nupsit se cuidam
 " Johanni de Ingham. Et postea,
 " vacante ecclesia prædicta per
 " mortem prædicti Nicholai per
 " prædictum Walterum Walerand
 " presentati, præfati Johannes et
 " Albreda presentarunt ad eandem
 " ecclesiam quendam Walterum de
 " Rudmerleghe, clericum suum, in-
 " cipiendo turnum, &c., qui ad præ-
 " sentationem suam fuit admissus et
 " institutus, &c., . . . tempore dom-
 " ini Regis Henrici proavi domini
 " Regis nunc, &c. Et postea præ-
 " dicta Johanna nupsit se cuidam
 " Willelmo de Sancto Martino, quo
 " tempore prædicta ecclesia vacavit
 " per mortem prædicti Walteri de
 " Rudmerleghe, &c., per quod præ-
 " dicti Willelmus et Johanna, con-
 " tinuando turnum suum, &c., præ-
 " sentarunt ad eandem quendam
 " Galfridum de Melbourne, clericum
 " suum, qui ad presentationem suam
 " fuit admissus et institutus. . . .
 " Et in tertia vacatione ecclesie
 " iidem Willelmus et Johanna,
 " usurpando super turno dictæ

No. 13.

veietz bien coment il ad parle dune composicion fait A.D. 1346.
entre B. et C., et ad suppose qe cel tourne appendreit
a les heirs C., et par taunt appent il a la fille
Oliver qest en vie auxi avant come a Marie; et
par vostre brief est suppose qe par resoun del noun
age Marie [il appent al Roi a presenter, et vostre
demonstraunce prove qil attient a la fille Oliver qest
en vie a presenter auxi avant come a Marie],¹ par

"Albredæ post mortem prædicti
"Galfridi præsentarunt ad eandem
"quendam Thomam de Stauntone,
"clericum suum, qui ad præsentationem suam fuit admissus et
"institutus, . . . tempore
"ejusdem Regis Henrici, &c. Et
"de ipsa Johanna descendit jus
"propartis suæ præsentandi per
"turnum, &c., cuidam Willelmo ut
"filio et heredi, &c. Et de ipso
"Willelmo descendit jus propartis
"illius præsentandi per turnum,
"&c., cuidam Reginaldo ut filio et
"heredi, &c. Et postea ecclesia
"prædicta vacavit per mortem
"prædicti Thomæ de Stauntone
"per prædictos Willelmum de
"Sancto Martino et Johannam
"præsentati, prædictus Reginaldus
"ut in turno suo, &c., præsentavit
"quendam Thomam de Forde,
"clericum suum, qui ad præsentationem suam fuit admissus et
"institutus, . . . tempore
"Edwardi Regis avi domini Regis
"nunc, post cujus mortem prædicta
"ecclesia modo vacat. Et de prædicto Reginaldo descendit jus,
"&c., præsentandi per turnum, &c.,
"cuidam Laurencio ut filio et
"heredi, &c. Et de ipso Laurencio
"descendit jus, &c., præsentandi
"per turnum, &c., isti Laurencio
"ut filio et heredi, &c. Et de prædicta Albreda descendit jus, &c.,
"præsentandi per turnum, &c.,

"cuidam Waltero ut filio et heredi,
"&c. Et de ipso Waltero descendit
"jus præsentandi per turnum, &c.,
"cuidam Olivero ut filio et heredi,
"&c. Et de ipso Olivero descendit
"jus, &c., præsentandi per turnum
"&c., cuidam Johanni ut filio et
"heredi, &c. Et de ipso Johanne
"descendit jus, &c., præsentandi
"per turnum, &c., cuidam Olivero
"ut filio et heredi, &c. Et de ipso
"Olivero descendit quibusdam
"Elizabeth et Johannæ ut filiabus
"et heredibus, &c. Et de ipsa
"Elizabeth descendit jus propartis
"sus præsentandi per turnum, &c.,
"cuidam Mariæ ut filis et heredi,
"infra statem et in custodia
"domini Regis esistenti. Et post
"mortem dicti Oliveri ultimi
"dominus Rex seisivit in manum
"suam omnia terras et tenementa,
"feoda et advocaciones quas
"fuerunt prædicti Oliveri tempore
"mortis suæ, eo quod tenuit de
"domino Rege per servitium
"militare. Et sic dicta propars
"præsentandi per turnum, &c., est
"in manu domini Regis nunc, et
"est quintus turnus post compositionem prædictam, per quod ad
"dominum Regem ad prædictam
"ecclesiam ad præsens pertinet
"præsentare, et prædictus Laurencius ipsum injuste impedit."

¹ The words between brackets are omitted from I.

No. 18.

A.D. 1346. the declaration is not warranted by the writ; judgment of the declaration.—*Thorpe*. We have counted that all Oliver's lands are in the King's hand, so that the seisin gives title to the King to present even though Mary were of full age.—*Derworthy*. Then we pray to be discharged with regard to Mary's non-age, and that we be not charged with anything but the simple seisin [of the King] after Oliver's death, of which he has spoken.—*Thorpe*. No, you will be charged with regard to both, for we understand that, after composition made between parceners to present by turn, if one parcener has two daughters and dies, and one of the daughters is under age, and the other of full age, and the King seizes the land by reason of the non-age of the one, that presentation which would be given to the two sisters, if they were both of full age, will be given to the King alone by his prerogative, because he will not present in common with the other. Therefore, even if you could show that you had sued the other's purparty out of the King's hand, yet, because the King will never present in common with that other, the suit can be maintained for him alone.—*Derworthy*. We say that, whereas he makes the descent from A. to B. and C., as to two daughters, A. had no daughter B., but we tell you that B. was the daughter of one D., which D. was the daughter of one A.; judgment of the declaration; and in case the King may be pleased to amend, we are ready to answer.—*Thorpe*. And inasmuch as the King has claimed in respect of C.'s purparty, and you have not assigned any defect in the descent from her, and therefore no answer has been made to the title which gives the presentation to the King, and you do not show that it belongs to you to present, therefore, &c.—*Birton*. If one parcener had brought a *Quare impedit* against

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quei la demoustraunce nest pas garrantie del brief; A.D. 1346.
 jugement de la demoustraunce.—*Thorpe*. Nous avoms
 counte que touz les terres Oliver sont en la meyn le
 Roi, issi que la seisine doun title al Roi a presenter
 mesqe Marie fust de pleyne age.—*Der*. Donques
 prioms destre descharge del noun age Marie, et que
 nous ne soioms charge de nul autre rienz mes de
 la simple seisine qil ad parle apres la mort Oliver.
 —*Thorpe*. Nanil, vous serrez charge del un et del
 autre, qar nous entendoms que apres la composicion
 faite entre parceners de presenter par tourn que si
 lun parcenier eit deux filles et devie, et lune soit
 deinz age, et lautre de plein age, et le Roi seise la
 terre par reson del noun age lune, que cel presente-
 ment quele serra done¹ a les deux seors, si les deux
 furent de pleine age, serra done tut soul al Roi par
 sa prerogative, qar il ne presentera pas od autre en
 comune. Par quei, mesqe vous purrietz moustrez que
 vous ussetz suy la purpartie lautre² hors de la meyn
 le Roi, pur ceo que le Roi ne presentera jammes en
 comune ove lautre,² la sute est meyntenable pur luy
 soul.—*Der*. Nous dioms que, la ou il fait la descente
 de A. a B. et C. come a deux filles, nous dioms que
 A. navoit nulle fille B., mes vous dioms que B. fust
 la fille un D., quele D. fust la fille un A.; jugement
 de la moustraunce; et en cas qil plest au Roi del
 amender, prest, &c., a respondre.—*Thorpe*. Et
 desicome le Roi ad clame de la purpartie C., et en
 cele descente navetz nul default assigne, et par taunt
 le title que done al Roi le presentement nest rienz
 respondu, ne vous ne moustrez pas que il appent a
 vous a presenter, par quei, &c.—*Birtone*. Si lune
 parcenere ust porte le *Quare impedit* vers lautre,

¹ done is omitted from I.| ² MSS. of Y.B., la aunte.

No. 13.

A.D. 1346. the other, she would have abated the count by a mistake in the descent as much on the side of the defendant as on the side of the plaintiff, and for the same reason with regard to the King, since he claims through the estate of the parcener.—WILLOUGHBY. You will not abate the King's declaration by such an exception without answering to his title.—*Skipwith*. Then we pray that the King do amend his count in accordance with our allegation, and we shall then be ready to answer.—And, without any amendment of the count, the defendant was put to answer over.—*Derworthy*. Then we say that there are two Newtons in the county, without addition, to wit, such an one and such an one, and there is a church in each, and it is not specified which is the church in particular; judgment of the writ.—*Thorpe*. You shall not be admitted to plead that, because you have alleged matter of fact against our declaration, on which we could have taken issue, and by that plea in fact you have affirmed that the vill is rightly named, and therefore you shall not be admitted to say that there are two villis.—*Skipwith*. If we had commenced with that, we should not afterwards have been admitted to plead to your descent, and therefore it is necessary that we should have the plea now.—SHARSHULLE to *Thorpe*. He could not be admitted to allege both exceptions at one time; and therefore it is necessary that, if he is to begin correctly, he must begin with the matter of the count, and go on afterwards to the matter of the writ; therefore answer over.—*Thorpe*. This is no plea, for in the fourth year of the reign we saw a *Quare impedit* brought in one county maintained in this Court, when the church was in another county¹; and, moreover, this is in its nature a writ of Trespass, on which writ such an exception

¹ The case appears in Y.B., Hil., 4 Edw. III., fo. 9, No. 20. The King was plaintiff. The writ was directed to the Sheriff of Shropshire, and the church was in the

county of Dorset. The writ was held good on the ground that the King can send his writ to the person who can most quickly bring the party to answer.

No. 13.

ele ust abatu le counte par mesprision de la descente A.D. 1346.

de la part le defendant auxi bien come de la part le pleintif, et par mesme la resoun vers le Roi, puis qil cleyme del estat la parcenere.—WILBY. Vous nabaterez pas la demoustraunce le Roi par tiele chalaunge sauns respondre a soun title.—*Skip*. Donques nous prioms qe le Roi amende son counte come nous lavoms allegge, et prest serroms a respoundre.—Et saunz amendre le defendant fust mys outre.—*Der*. Dounques dioms nous qe en le counte ils y ount deux Neweton, saver tiel et tiel, saunz adieccion, et en chescun il y avoit eglise, nent determine en certeyn quel ceo fust; jugement du brief.—*Thorpe*. A ceo navendrez pas, qar vous avetz allegge matere en fait a nostre demoustraunce, sur quel nous purrioms aver pris issue, par quel plee en fait vous avetz afferme qe la ville est bien nome, par quei a dire qils y ount deux navendretz pas.—*Skip*. Si nous ussoms comence [a cel, nous nussoms pas apres avenu daver plede a vostre descente, par quei il covent]¹ qe nous leioms a ore.—SCHARS. a *Thorpe*. Il ne poait estre resceu a allegger lun chalaunge et lautre a un temps; donques covent il qe sil deyve resonablement comencer² qil comence a la matere de counte, et puis a la matere de brief; par quei dites outre.—*Thorpe*. Ceo nest pas plee, qar *anno quarto* nous veymes un *Quare impedit* meyntenu ceins en une counte la³ ou leglise fust en autre counte; et auxi cest un brief de Trespas en sa nature, en quel brief tiele excepcion

¹ The words between brackets are omitted from I.

² comencer is omitted from I.

³ la is omitted from I.

No. 13.

A.D. 1346. does not lie; and, besides, we will aver that the church is known by the name of the church of Newton without addition, and we demand judgment whether our writ is not sufficiently good.—*Derworthy*. Then it is the fact that there are two vill[s] [called Newton] without addition, and we demand judgment since every church takes its name from the vill in which it is, and you have not tendered an averment that the vill is known by such a name; judgment whether, &c.—HILLARY said to *Thorpe* that it is not law that a *Quare impedit* can be maintained in one county in respect of a church which is in another county, and he said that no resemblance can be drawn between a writ of Trespass and a writ of *Quare impedit* which always trenches upon realty. Therefore (said HILLARY), if you have not any other matter by which to maintain your writ, it cannot be maintained; and therefore consider.—*Thorpe*. There is no Newton in which there is a parochial church except this one; ready, &c.—*Derworthy*. Then you do not deny that there are two such vill[s], and without addition; judgment.—HILLARY. Even if there are two such vill[s], unless you can maintain that there is a parochial church in each of them, the writ is good enough.—*Derworthy*. We will imparl. And he came back and said that A.¹ had issue C.¹ and D.,¹ and D. had issue B.,¹ of whom he has spoken, *absque hoc* that B. was the daughter of A.¹ And we tell you that in A.'s time there were three parsons of the same church, of three patronages, that is to say of A.'s patronages, and there was a definite allowance for each parson's portion, and therefore afterwards one O.,¹ Cardinal and Legate of the Court of Rome, came into England and made consolidation of the three parsons, so that after their death there should be only one parson of the whole church. And whereas you have

¹ For the names and alleged facts, see p. 515, note 1.

No. 13.

ne lie pas; et, ovesqe ceo, nous voloms averer qil A.D. 1346.
 est conu par noun deglise de Newetone sanz
 adjeccion, et nous demandoms jugement si nostre
 brief ne soit assetz bon.—*Der.* Donques est il issi qe
 il y ad deux¹ villes saunz adjeccion, et demandoms
 jugement puis qe chescun eglise prent soun noun de
 la ville ou il est, et vous navetz tendu daverer qe
 la ville est conu par tiel noun; jugement si, &c.—
HILL. dit a *Thorpe* qe ceo nest pas lei qe *Quare*
impedit est meyntenable en un counte dune eglise
 qest en autre counte, et dit qe homme ne put attrere
 semblance entre un brief de Trespas et cest brief
 trenche tut en la realte. Par quei si vous neietz
 autre matere de meyntenir vostre brief il nest pas
 meyntenable; et pur ceo avisez vous.—*Thorpe.* Il ny
 ad nulle Newetone en quele eglise parochiale est
 sauve cele une; prest, &c.—*Der.* Donques vous ne
 dedites pas qil ny ad tielx deux villes [et saunz²
 adjeccion; jugement].³—*HILL.* [Mesqil y eit tielx ij.
 villes],³ si vous ne poetz meyntenir qe il y ad eglise
 parochiale en chesqun deux, le brief est assetz bon.
 —*Der.* Nous enparleroms. Et revynt, et dit qe A.
 avoit issue C. et D., et de D. issit B., de qi il ad
 parle, saunz ceo qe B. fust la fille A. Et vous dioms
 qen le temps A. de mesme leglise ils y avoient iij.
 persounes, de iij. avoweres, [saver de les avoweres
 A.],³ et a la porcion chesqune persone un certain, par
 quei apres un O., Cardinal et Legat de la Court de
 Rome, vint en Engleterre et fist consolidacion de les
 iij. persones, qil ny avereit apres lour descens quene
 persone de tote leglise. Et la ou vous avetz

¹ H., nulle.² H., nulle saunz.³ The words between brackets
are omitted from I.

No. 13.

A.D. 1346 said that a composition was made as above, to that we say that no composition was ever made between the parceners, but we tell you that, after the death of A., C. granted all her estate in the patronage to B., our ancestor, to hold to her and her heirs. And he said that his ancestors had subsequently presented twice, as they had counted for the King, and so he is seised, and it belongs to him to present, and we do not understand that our Lord the King can assign any tortious disturbance in his person.—

No. 18.

dit qe composicion se prist *ut supra*, a ceo dioms A.D. 1346. nous qe nulle composicion unges prist entre eux, mes vous dioms qe, apres la mort A., C. graunta tut son estat del avowere a B., nostre auncestre, a luy et a ses heirs. Et dit qe ses auncestres avoient presente puis come ils ount counte pur le Roi deux foith, et issi est il seisi del avowesoun, et a luy appent a presenter, et nentendoms pas qe nostre seignur le Roi en luy puisse torcenouse destourbaunce assigner.¹

¹ The plea was, according to the record, "quod quidam Walterus " Walrand fuit seisitus de prædicto " manerio de Niwetone, et de " advocacione ecclesiæ ejusdem " manerii, . . . tempore Regis " Johannis progenitoris domini " Regis nunc, et prædicta manerium " et advocacionem tenuit de honore " de Chaworth, qui nunc est in " manus [sic] Comitis Lancastriæ, " et eodem tempore fuerunt tres " personæ impersonatæ in eadem " ecclesia præsentatæ per præ- " dictum Walterum, videlicet, " Willelmus Beneyt, Nicholaus de " Suttone, et Stephanus de Clive, " qui admissi fuerunt et instituti " in eadem, tempore ejusdem Regis " Johannis, &c., et qui portiones " suas ipsos separatim contingentes " in eadem ecclesia perceperunt. " Et de ipso Waltero descendit jus " præsentandi, &c., quibusdam " Cæcilie, Albredæ, et Isabellæ ut " filibus et heredibus, &c. Et de " ipsa Isabella exivit quædam " Johanna, &c., quæ quidem " Cæcilia obiit sine herede de se, " per quod jus præsentandi, &c., " ipsam Cæciliam contingens, &c., " descendit præfatis Albredæ et " Isabellæ ut sororibus et heredibus, " &c. Et postea præfata Albreda " dedit et concessit advocacionem

" prædictam cuidam Johannæ filiæ " prædictæ Isabellæ tenendam sibi " et heredibus suis in perpetuum. " Et postea, tempore Regis Henrici, " &c., quidam Cardinalis Ottobonus, " sedis Apostolicæ legatus, fecit " consolidationem dictæ ecclesiæ " ita quod unus esset persona dictæ " ecclesiæ post mortem prædictorum " Willelmi Beneyt, Nicholai, et " Stephani. Et dicit quod, ubi " dominus Rex supponit in nar- " ratione sua quod prædicta " Johanna desponsata fuit cuidam " Willelmo de Sancto Martino, " eadem Johanna desponsata fuit " Jordano de Sancto Martino, &c. " Et dicit quod nulla compositio " facta fuit inter prædictas " Albredam et Johannam de advo- " catione prædicta ad præsentan- " dum per turnum, prout dominus " Rex supponit, &c., nec prædictus " Walterus de Rudmerleghe un- " quam fuit admissus et institutus " in prædicta ecclesia ad præsen- " tationem prædictorum Johannis " de Ingham et Albredæ, sed dicit " quod post consolidationem factam " de ecclesia prædicta prædicti " Jordanus de Sancto Martino et " Johanna uxor ejus, ut in jure " ipsius Johannæ, præsentarunt ad " eandem quendam Galfridum de " Mulebourne, clericum suum, qui

No. 13.

A.D. 1346. *Grene*. You see plainly that they have not denied that this daughter who is under age and in the King's wardship is issue of the younger sister, in which case, without any composition, the turn which has now occurred would belong to him, unless the grant of the advowson by C. were admitted, and that grant falls under the head of specialty, and could not pass without specialty; therefore, since he does not produce any specialty in relation to that grant, we demand judgment for the King, and pray a writ to the Bishop.—

No. 13.

—*Grene.* Vous veietz bien coment ils nount pas A.D. 1346.
 dedit qe celi qest deinz age et en la garde le Roi
 nest issue de la puisnesse seor, en quel cas, saunz
 composicion, le tourn qest a ore avenu serra a luy,
 si le grant del avoweson ne fut pas resceu par C.,
 quel graunt chiet en especialte, et saunz especialte¹
 ne poait passer; par quei, puis qil ne moustre
 nulle especialte de cel grant, nous demandoms
 jugement par le Roi, et prioms brief al Evesqe.²—

“ad præsentationem suam fuit
 “admissus et institutus,
 “tempore Henrici Regis proavi,
 “&c. Et de ipsa Johanna de-
 “scendit jus præsentandi, &c.,
 “cuidam Willelmo ut filio et
 “heredi, quo tempore ecclesia illa
 “vacavit per mortem prædicti
 “Galfridi, per quod idem Willel-
 “mus præsentavit quendam
 “Walterum de Rudmarle, clericum
 “suum, qui ad præsentationem
 “suam fuit admissus et institutus,
 “. qui quidem
 “Walterus est eadem persona
 “quem dominus Rex supponit
 “præsentatum fuisse per prædictos
 “Johannem de Ingham et Albre-
 “dam. Et postea, vacante ecclesia
 “illa per mortem prædicti Walteri,
 “&c., prædictus Willelmus præ-
 “sentavit ad eandem ecclesiam
 “quendam Thomam de Stauntone,
 “clericum suum, qui ad præsentationem
 “suam fuit admissus et
 “institutus, tempore
 “Edwardi Regis avi domini Regis
 “nunc. Et de ipso Willelmo
 “descendit jus præsentandi, &c.,
 “cuidam Reginaldo ut filio et
 “heredi, &c., qui præsentavit ad
 “eandem præfatum Thomam de
 “Forde, post cujus mortem, &c.
 “Et de ipso Reginaldo descendit
 “jus, &c., cuidam Laurencio ut

“filio et heredi, &c. Et de ipso
 “Laurencio descendit jus, &c., isti
 “Laurencio de Sancto Martino, &c.,
 “ut filio et heredi, &c. Et sic
 “dicit quod ipse seisisus est de
 “advocatione prædicta, &c., et
 “petit breve Episcopo, &c.”

¹ The words et saunz especialte are omitted from I.

² The replication was, according to the record, “quod prædictus Laurencius expresse cognovit quod prædictus Walterus Walrand, communis antecessor, &c., fuit seisisus de advocatione prædicta, et ad eandem ecclesiam præsentavit prædictum Nicholam de Suttone, qui ad præsentationem suam fuit admissus, &c., nec dedit descendum quem dominus Rex in demonstratione sua fecit de præfato Waltero usque ad præfatum Mariam, quæ est infra ætatem et in custodia domini Regis, &c., nec etiam quin vacatio ista sit quintus terminus post compositionem prædictam, et sic pertinet ad heredem prædictæ Albrede ad præsens præsentare. Et prædictus Laurencius, superius peremptorie placitando ad excludendum dominum Regem de præsentatione sua prædicta, pro responsione cepit quod prædictus Walterus de

No. 13.

A.D. 1346. *Derworthy*. And we demand judgment since we have surmised that she gave and granted the advowson to D., which matter can fall under the cognisance of a jury, and that without specialty, and therefore we demand judgment.—*Grene*. There is no question but that, if the grant of the advowson by C. were not in existence, the turn on this voidance would belong to us. And I say that you have yourself confessed that C. and D. were seised of the advowson in common by descent, in which case one of them could not give anything to the other, but if anything could accrue to D. it would be by a deed executed during her seisin, which deed could not be the subject of an averment; and, inasmuch as you do not produce it, we demand judgment.—*Pole*. If anyone gives me an advowson, which, being in his hand, was appendant, he cannot sever it without a specialty, nor can I claim it against him without a specialty; but if I have a presentation afterwards, by which the grant becomes executed, and I am in possession, then I can very well plead the grant; so also in our case, since we have affirmed a presentation made by us since the grant, by which the grant became executed, there is now no necessity to produce a specialty of the grant.—*Grene*. In the case which you put, where an advowson which was appendant is severed by grant, if the grantee afterwards presents he puts the other out of possession; for, if the grant is worthless without a specialty, the presentation which the grantee makes is of no other force than it would have been if a grant had never been made; but in the case in which we are the presentation which you made did not put the infant's ancestor

No. 13.

Der. Et nous demandoms jugement puis qe nous A.D. 1346.
 avoms surmys qele dona et graunta lavoweson a D.,
 quele chose purra chere en conissaunce de pays, et
 ceo saunz especialte, par quei nous demandoms
 jugement.—*Grene.* Il ny ad nent plus mes si le
 graunt del avoweson par C. ne fuist a ceste voidaunce
 le tourn appendreit a nous. Et jeo die qe vous
 mesmes avetz conu qe C. et D. furent seisiz del
 avoweson en comune par descente, en quel cas lun
 ne pout rienz doner al autre, mes si riens accrestereit
 a D. ceo serra par un fait en sa seisine, quel fait
 ne poait estre avere; et de ceo qe vous ne moustrez
 rienz de ceo, nous demandoms jugement.—*Pole.* Si
 un homme me doune un avoweson quel fut en sa
 meyn appendant, il ne le poet severer saunz especialte,
 ne jeo ne le puisse clavier countre luy saunz
 especialte; mes si jeo eye un presentement apres par
 quel le graunt est execut, et jeo en possessioun,
 adonques jeo le pledray assetz bien; auxi en nostre
 cas, puis qe nous avoms afferme puis le graunt en
 nous presentement, par quel le graunt fut execut, il
 ne covent pas a ore demoustrer especialte del graunt.
 —*Grene.* En le cas qe vous mettez, la ou une
 avoweson qe fust appendant est severe par graunt,
 sil presente apres il mette lautre hors de possessioun;
 qar si le graunt ne vaut rienz saunz especialte, le
 presentement qil fait est de nul autre force qe si
 unqes graunt ne fust; mes en le cas ou nous sumes
 le presentement qe vous feistes ne mist pas launcestre

" Rudmerleghe non fuit admissus,
 " institutus, &c., ad præsentationem
 " prædictorum Johannis de Ingham
 " et Albredæ, quæ non est sufficiens
 " responsio ad destruendum ti-
 " tulum domini Regis in hoc casu,
 " ex quo non dedicit quin iste sit
 " quintus turnus ad heredem præ-
 " dictæ Albredæ pertinens. Et quo
 " ad hoc quod allegat quod prædicta

" Albreda dedit et concessit advo-
 " cationem prædictam præfatæ
 " Johanne filie Isabellæ, ad quod
 " requiritur habere aliquod factum
 " speciale per quod donatio et con-
 " cessio prædictæ testari possent,
 " de quo nihil Curie hic ostendit.
 " unde petit judicium pro domino
 " Rege, et breve Episcopo, &c."

No. 14.

A.D. 1346. out of possession since you were parceners, and the turn now belongs to us, and what you allege to annul our claim so that we cannot claim any turn is the grant of the ancestor, which must have been made during D.'s seisin, and that could not be without specialty; therefore we demand judgment, &c.—And thereupon they were adjourned.¹

Deceit.

(14.) § John Daune, knight, sued a writ of Deceit in respect of an execution awarded against him on a *Scire facias* through his default. The garnishers now appeared, and were examined, and it was found that the tenant had been warned by them to be at Westminster, on the day mentioned in the *Scire facias*, to answer to the plaintiff then whether he could say anything wherefore the plaintiff should not have execution in accordance with the form of the fine. And the under-sheriff also was there, and was sworn; and it was found by examination that the tenant had been warned by the garnishers. — Therefore WILLUGHBY gave judgment:—Because it had been found by examination that the tenant had been warned by them to answer to the

¹ The report is continued in Y.B., Mich., 20 Edw. III., No. 28.

No. 14.

lenfaunt hors de possessioun, puis qe vous estoiez A.D. 1346.
 parceners, et le tourn a ore est a nous, et ceo qe
 vous alleggez de anentir qe nous ne poms nul
 tourn clamer ceo est le graunt launcestre, quel
 covendroit aver este fait en la seisine D., qe ne
 poet estre saunz especialte; par quei nous demandoms
 jugement, &c.—Et sur ceo sont ajournetz.¹

(14.)² § Johan Daune, chivaler, suyst un brief de Deceyte.
 Deceite dun execucion agarde vers luy en un *Scire*
facias par sa defaute. Les garnissours vindrent a
 ore, et furent examinez, et trove qe le tenant fut
 garni par eux destre a Westmestre tiel jour, come
 le *Scire facias* voleit, a respoundre al pleintif
 adounques sil savoit rienz dire pur quei il navereit
 execucion solonc la forme de la fine, &c. Et auxi
 le soutz vicounte fust la, et fust serement; et
 trove par examenement qil fust garny par eux.—
 Par quei WILBY. agarda qe pur ceo qe par examine-
 ment fut trove qil fust garny par eux a respoundre

¹ The pleadings subsequent to the replication were, according to the record, "Laurencius dicit quod ipse superius in placito suo non cepit tantummodo pro finali responsione quod prædictus Walterus de Rudmerleghe non fuit admissus, &c., ad præsentationem prædicti Johannis de Ingham et Albredæ, sed etiam quod prædicta Albreda dedit et concessit eandem advocacionem prædictæ Johannæ in forma qua ipse superius supponit, virtute quarum donationis et concessionis eadem Johanna fuit sola advocata ecclesiæ prædictæ, et ipsa et heredes sui et antecessores ejusdem Laurencii semper postea præsentarunt ad eandem, &c., et sic dicit quod ipse est solus advocatus ecclesiæ prædictæ, per

"quod non intendit quod dominus Rex. in jure præfatæ Mariæ, cujus antecessor, &c., se dimisit de advocacione illa, aliquid in præsentatione ad ecclesiam prædictam habere possit, &c.

"Et Johannes [de Clone] qui sequitur, &c. [i.e. pro domino Rege], dicit, ut prius, quod, ex quo prædictus Laurencius non ostendit Curiam hic aliquod speciale factum, quod prædictas donationem et concessionem præfatæ Johannæ per prædictam Albredam testatur, petit judicium pro domino Rege et breve Episcopo."

Adjournments follow, and apparently nothing else, but the roll is in bad condition and to a great extent illegible.

² From H., and I.

Nos. 15, 16.

A.D. 1346. plaintiff as is above said, and that fifteen days before the return of the writ, therefore take nothing by your writ, &c.

Deceit. (15.) § A writ of Waste was sent to the Sheriff for him to enquire of waste, and waste was found, and therefore the plaintiff recovered. And now the defendant prayed a writ of Deceit on the ground that he had not been summoned, attached, or distrained, and the writ was granted, notwithstanding the fact that the plaintiff recovered by verdict, and not by default. Therefore he prayed that the writ might issue to the Coroners, because the Sheriff was, in a manner, a party; but he could not have it so, but only a writ directed to the Sheriff, as in the case of other writs of Deceit grounded on non-summons or non-garnishment, &c.

Attachment on Prohibition.

(16.) § The King brought an Attachment on Prohibition against Roger de Maners, and counted, by *Notton*, that whereas the King had presented to the church of E. one Richard de Skarles, his clerk, who on his presentation was admitted and instituted by the Bishop of L., this Roger sued divers processes, at the Court of Rome, against this same Richard in respect of the same church, upon which he sued a citation to Richard to appear at the Court of Rome to show wherefore he had held the said church contrary to the provision of the said Court made to the said Roger, as well as a citation to the Abbot of Ramsey to whose patronage this church belonged, and therefore the King sent his Prohibition to the said Roger that he should intermeddle no further in that matter. And that Prohibition was delivered to him by such an one and such an one, on such a day, &c. And the said Roger, after the said prohibition, encroached upon the patronage, and afterwards made other citations to

Nos. 15, 16.

al pleintif come desus est dit, et ceo xv. jours avant A.D. 1346.
le brief retourne, par quei ne preignetz rienz par
vostre brief, &c.

(15.)¹ § Un brief de Wast fust mande al Vicounte Deceyte.
denquere le wast, et le wast trove, par quei il ^{[Fitz.,}
recoveri. Et ore le defendant pria un brief de ^{Disceit,}
Desceite pur ceo qe il ne fust pas somons, attache,
ne destreint, et le brief graunte, nient countreesteaut
qil recoveri par verdit, et ne mye par defaute. Par
 quei il pria qe le brief issit a les Coroners, puf
 ceo qe le Vicounte est en manere partie; mes
 il ne le poait aver, mes al Vicounte direct come en
 autres briefs de Deceite par cause de nounsomons ou
 de nongarnissement, &c.

(16.)¹ § Le Roi porta un Attachement sur la ^{Attache-}
prohibicion vers Roger de Maners, et counta, par ^{ment sur}
Nottone, qe come le Roi ust presente al eglise de ^{prohibi-}
E. un son clerk Richard de Skarles,² qe a soun
presentement fust resceu et institut del Evesqe de
L., le quel Roger a la Court de Rome suyst divers
proces vers mesme celi Richard de mesme leglise,
hors de quel il suyst une citacioun a Richard destre
a la Court de Rome a moustrer pur quei il avoit
tenu la dite eglise countre la provision de la dite
Court fait al dit Roger, et ceo al Abbe de Rameseye,
de qi avowere cele eglise fust, par quei le Roi
maunde sa prohibicion al dit Roger qe mes ne se
mellast de .ycele, quel prohibicion fust livre
a luy par un tiel et un tiel, tiel jour, &c.
Et le dit Roger, apres la dite prohibicion, riwa³
en lavowere,⁴ et apres fist autres citacions al

¹ From H., and I.² I., Scharles.³ I., rewa.⁴ H., la Bowe.

No. 16.

A.D. 1346. the said Richard, and also to the Abbot of Ramsey, to appear at the Court of Rome on a certain day to answer wherefore he had acknowledged the presentation on that voidance to belong to the King by collation (whereas the presentation belonged to him) so as to nullify the provision granted by the said Court. And all this was done tortiously and in subversion of the royal right of our Lord the King and of his Crown, and in contempt of the commands of our Lord the King, and to the damage, &c.—*Huse* defended, and demanded judgment of the count, on the ground that *Notton* had counted that Roger had sued divers processes at the Court of Rome, and had not stated definitely what they were; judgment.—And this exception was not allowed.—Therefore *Huse* said, as to the delivery of the Prohibition, that none was delivered to him; ready, &c. And as to the rest he pleaded Not Guilty.—And both issues were admitted.—The defendant prayed that he might be allowed to find mainprise.—*Thorpe*. You cannot have it, because our suit is that you have sued matters such that you, as far as in you lies, thereby deprive the King of the rights of his Crown; therefore you cannot be on mainprise.—*Birton*. All your suit is only by way of suggestion, and we have tendered an averment to the contrary of that, and therefore you are no more to be believed, since we have denied your statement, than we are; therefore we pray our mainprise.—*WILLOUGHBY*. We will consider whether you are in a condition to be held to mainprise in this case, or not.—And afterwards he was let out on mainprise, &c.—*WILLOUGHBY* and all the Justices said that if the defendant, in the meantime, made any appeals or citations to Rome, the mainpernors would be held to ransom at the King's will, without being allowed to make a fine as in respect of a

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dit Richard, et auxi al Abbe de Rameseye, destre a A.D. 1346. la Court de Rome a certain jour a respoundre par quei il avoit conu le presentement a cele voidaunce al Roi par collacion, la ou le presentement attendy a luy, pur ouster la provisioun graunte par la dite Court, a tort, et en enervacioun de dreit Real nostre seignur le Roi et de sa Corone, et en despit les maundementz nostre seignur le Roi, et as damages, &c.—*Huse* defendi, et demanda jugement de counte, pur ceo qil avoit counte qe Roger avoit suy divers proces a la Court, et nad pas determine queux ils furent; jugement.—*Et non allocatur*.—Par quei il dit qe quant a la livre de la prohibicion qe nulle lui fust livre; prest, &c. Et quant al remenant, de rienz coupable.—Et lissue sur lun et lautre resceu.—Le defendant pria qil pout trouver meynprise.—*Thorpe*. Vous naveretz pas, qar nostre suyte est qe vous avetz suy tielx¹ choses pur queux vous, en taunt come en vous est, tolletz le Roi sa Corone; par quei vous nestes pas meynpernable.—*Birtone*. Tut vostre suyte nest mes suggestif, et le contraire de cele avoms tendu daverer, par quei vous ne serretz nient plus crue, puis qe nous lavoms dedit, qe nous ne serroms; par quei nous prioms nostre meynprise.—*WILBY*. Nous aviseroms le quel vous soietz en cel cas meynpernable, ou nient.—Et puis il fut lesse a meynprise, &c.—*WILBY*. et touz les Justices disoient qe si le defendant, en le mene temps, fait asquns appels ou citacions qe les meynpernours serrount reintz a la volonte le Roi saunz fine faire

¹ I., tieux,

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A.D. 1346. common mainprise, and that even though they brought in the defendant's body on the appointed day.

*Quare
impedit.*

(17.) § The King brought a *Quare impedit* against William Bishop of Winchester, and counted that it belonged to him to present to the precentorship of L.¹ [and that the Bishop prevented him] and tortiously because one Adam Bishop of Winchester was seised of the advowson of the precentorship as of fee and of right, and presented this William who is now Bishop. and after the death of Adam the temporalities were seized into the King's hand; and he said that by provision of the Pope the bishopric was granted to William, which provision William accepted, and was afterwards confirmed, and by that provision of the bishopric the precentorship became void, while the temporalities were in the King's hand, and so it belongs to the King to present.—*Derworthy*. We tell you that it is true that we had the bishopric by provision of the Court of Rome, and we do not understand that by reason of that provision the precentorship could be void until we were consecrated. And we tell you that a quarter of a year before we were consecrated, to wit, on such a day, the King made livery to us of all our temporalities, fees, and advowsons. And we tell you that we

¹ As to the precentorship, *see* p. 527, note 1.

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come dune comune meynprise, mes qils eyent le A.D. 1346
corps a jour, &c.

(17.)¹ § Le Roi porta *Quare impedit* vers William *Quare impedit*.
Evesqe de Wyncestre, et counta qe a luy appent a
presenter a la chaunterye de L., et pur ceo atort
qun Adam Evesqe de Wyncestre fut seisi de
lavowesoun de la chaunterye come de fee et de
dreit, et presenta celi William qest ore Evesqe, et
apres la mort A. les temporales furent seisis en la
meyn le Roy; et dit qe par la purveaunce del
Appostoil² levesche³ fut graunte a William, quele
purveaunce il accepta, et puis fut conferme, par quele
purveaunce del evesche la chaunterye se voida,
esteauntz les temporales en la meyn le Roi, et issi,
&c.⁴—*Der.* Nous vous dioms qe verite est qe nous
avioms levesche par la purveaunee de la Court, et
entendoms qe par cele purveaunce taunqe nous
fumes sacre voide la chaunterie ne put estre. Et
nous dioms qun quarter del an avant qe nous
fumes sacre, saver, tiel jour, le Roi nous fist livre
de noz temporaltez, fees, et avowesouns. Et nous

¹ From H., and I., but corrected by the record, *Placita de Banco*, Trin., 20 Edw. III., R^o 85, d. It there appears that the action was brought by the King against William, Bishop of Winchester, in respect of a presentation "ad præcentoriam ecclesiæ beatæ Mariæ juxta Suthampton nuper vacantem, et ad Regis donationem spectantem ratione Episcopatus Wyntoniensis nuper vacantis et in manu Regis existentis."

² Appostoil is omitted from I.

³ I., Evesche.

The declaration was, according to the record, "quod quidam Adam de Orleton nuper Episcopus Wyntoniensis fuit seisitus de advocacione præcentoriæ præ-

dictæ ut de jure Episcopatus sui prædicti, qui eandem præcentoriam contulit cuidam Willelmo de Edyngtone, clerico suo, et eum induxit in eadem. Et postea Episcopatus prædictus devenit in manum domini Regis nunc per mortem prædicti Adæ de Orleton, quo tempore dominus Clemens nunc Papa providit præfato Willelmo de Edyngtone Episcopatum Wyntoniensem, qui quidem Willelmus provisionem illam acceptavit, et confirmatus est, &c., ratione quarum provisionis, acceptationis, et confirmationis prædicta præcentoria vacat, per quod ad ipsum dominum Regem pertinet ad præcentoriam prædictam presentare."

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A.D. 1346. were consecrated a long time afterwards, and that at that time the precentorship became void, at which time we had had the patronage delivered to us out of the King's hand, and we do not understand that in respect of that voidance the King can assign tort in our person, &c.¹

Avowry. (18.) § One avowed a taking on the ground that there had been granted to the King by the whole community of the realm a fifteenth of their goods, to be levied during the two years next following, for which reason one A.² and B.² had been appointed collectors and takers in that county, and they had appointed the avowant, because he was one of the dozers of the vill of R.² to collect

¹ There is a continuation or another report of this case in Y.B. Mich., 20 Edw. III., No. 60.

² For the names, see p. 531, note 1.

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dioms qe longe temps apres nous fumes sacre, A.D. 1346.
a quel temps la Chaunterye voida, a quel temps
nous avioms lavowere a nous livre hors de la
meyn le Roi, et nentendoms pas qe de cele
voidaunce le Roi purra en nostre persone tort
assigner, &c.¹

(18.)² § Un avowa un prise par la resoun qe *Avowere.*
grante fuist al Roi par tut la comune de la terre *[Fitz.,*
la xv. des biens, a lever par les ij. auns proscheyn *Avowere,*
apres, par quei un A. et B. furent assignez en cel *130.]*
counte coillours et pernours, les quex assignerent luy,
pur ceo qil fut un des dezeiners de la ville de R.

¹ The plea was, according to the record, "Episcopus . . . bene cognoscit quod predictus Adam nuper Episcopus, prædecessor, &c., fuit seisitus de advocacione præcentoria prædictæ, ut de jure Episcopatus sui prædicti, qui eandem contulit eidem Willelmo nunc Episcopo, tunc clerico suo, et eum induxit in eadem, et similiter quod postea temporalia Episcopatus prædicti devenerunt in manum domini Regis per mortem prædicti Adæ nuper Episcopi, et quod Papa providit eidem Willelmo de Episcopatu prædicto. Et dicit quod dominus Rex restituit eidem Willelmo omnia temporalia, feoda, et advocaciones ejusdem Episcopatus quintodecimo die Februarii anno regni domini Regis nunc vicesimo. quo die et postmodum idem Willelmus fuit præcentor prædictæ ecclesiæ beatæ Mariæ usque ad quartumdecimum diem Maii proxime sequentem quod idem Willelmus consecratus fuit in Episcopum Wyntoniensem, quo quartodecimo die præcentoria

"prædicta vacavit per consecrationem prædictam. Et dicit quod ipse est verus patronus ejusdem quo die ipse fuit seisitus de advocacione prædictæ præcentoria, et fuit die consecrationis prædictæ, et diu ante. Et petit judicium si dominus Rex aliquam injuriam in persona ipsius Episcopi assignare possit, &c."

There are several further pleadings on the roll, which, however, becomes, to a great extent, illegible towards the end.

² From H., and I., but corrected by the record, *Placita de Banco*, Trin., 20 Edw. III., R^o 47, d. It there appears that the action was brought by Thomas de la Lynde against Philip atte Pole and others, for that they took eleven pigs, "in villa de Dynyngtone in quodam loco vocato le Northfelde, . . . et eos injuste detinuerunt contra vadium et plegios quousque septem porci de prædictis undecim porcis deliberati fuerunt per ballivum Regis, &c., et quatuor porcos residuos adhuc penes se detinet, &c."

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A.D. 1346. and levy the fifteenth throughout the whole tithing, and he and the tenants of the land which he held had always been assessed within the tithing in accordance with the quantity of that land and of the goods which they had within the tithing, and because the plaintiff's portion amounted to the sum of ten shillings the avowant did take the beasts; and we tell you (said his Counsel) that three of the beasts died for want of food, and that through your fault, and we avow, &c.—*Huse*. Sir, you see plainly that this parol has been removed into this Court at his suit on the ground that he distrained within his fee for services, &c., and now he avows for another cause; judgment whether he ought to be admitted to this.—

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de coiller et lever la quinzisme par tute la dezeine, A.D. 1346.
 et il et les terre tenantz qil tint ount este tut
 temps taxes deinz la dezeine solonc la quantite de
 cele terre et des biens qils avoient deinz la dezeine,
 et pur ceo qe la porcion le pleintif fust assumme
 a x.s. si les prist il; et vous dioms qe iij. de les
 bestes sont mortz en defaute de pestre, et issi par
 vostre defaute, et avowoms, &c.¹—*Husc.* Sire, vous
 veietz bien coment cest paroule est remue a
 sa suyte pur ceo qil destreigna deinz son fee
 pur services, &c., et ore avowe il pur autre
 cause; jugement si a ceo deveir avenir, &c.—

¹ The avowry of Philip. for : "dare et contribuere solebant,
 himself and the others, was, "quindenam prædictam. Et
 according to the record, "quod : "quin prædictus Thomas tenet
 "anno regni domini Regis nunc : "quædam terras et tenementa
 "Angliæ decimo octavo per : "vocata la. Hyle Castellonde
 "communitatem totius Angliæ : "et Northfelde, unde prædictus
 "quædam quindena concessa : "locus in quo, &c., est parcella,
 "fuit domino Regi pro anno : "pro quibus terris et tenementis,
 "illo et pro quodam alio anno : "et catallis in eisdem existen-
 "proxime sequente, pro qua : "tibus, cum decenna prædicta
 "quidem quindena levanda in : "ad hujusmodi talliagium et
 "Comitatu prædicto quidam : "concessionem dari et contribui
 "Johannes de Durburghe et : "solebat, et pro terris et tenementis
 "Robertus de Somertone assign- : "ac aliis bonis et catallis in eisdem
 "ati fuerunt per commissionem : "existentibus portio præfati Thomæ
 "domini Regis, qui quidem : "se extendebat ad sex solidos et
 "Johannes et Robertus onera- : "octo denarios, quos quidem
 "bant et assignabant decen- : "denarios idem Thomas solvere
 "narios cujuslibet decennæ ad : "omnino recusavit, ipse Philippus
 "levandum de qualibet decenna, : "ad tunc decennarius, &c., pro
 "et de omnibus qui cum præ- : "denariis illis cepit porcos præ-
 "dictis decennis dare et con- : "dictos, prout ei bene licuit. &c.
 "tribuere solebant, portiones : "Et quo ad prædictos quatuor
 "suas dictas decennas contin- : "porcos, &c., dicit quod, pro eo
 "gentes. Et dicit quod ipse : "quod prædictus Thomas præ-
 "Philippus, tunc decennarius de : "dictos porcos depascere noluit,
 "Alwynesheghe assignatus fuit : "iidem porci mortui sunt in
 "et oneratus per prædictos Johan- : "faldia in defectu ejusdem Thomæ.
 "nem et Robertum ad levandum : "Et hoc paratus est verificare,
 "de decenna prædicta, et de : "unde petit judicium, &c."

"omnibus qui cum decenna illa

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A.D. 1346 SHARSHULLE. The parol is now removed into this Court, and the question whether the parol is false or true is not to be discussed now; therefore answer. — *Huse*. Judgment of the avowry: for he has supposed that we were assessed at that sum for which he avows, and he has not stated for what we were assessed; judgment. — *Grene*. We did not say that you were assessed, but that your portion amounted to so much, as we have avowed. — *Birton*. Our portion cannot be levied until we are assessed by assessors at a certain sum; therefore, inasmuch as you have avowed the taking for that cause without assessment, the avowry is faulty. — *WILLOUGHBY*. He says that your portion amounts to that sum according to the quantity of your lands and goods; and he has avowed, as the King's officer, in respect of something due to the King, in which case he understands that he can levy it according to his estimate, without assessment; and, in case he has put the sum of your portion higher than is right, you will have a plea to discharge yourself of the excess; therefore answer. — *Huse*. We say that the same land is within the tithing of B. and not within the tithing of R., and that we had not any goods or chattels within that tithing, but we tell you that our portion has been levied within the tithing of B., and has always been assessed within that tithing; and we say that in the fifteenth year of the reign the defendant took a distress from us, as dozener of R., for our portion, and he caused us to pay a fine for having our beasts back, for paying which fine we recovered our damages before Justices of Trailbaston, *absque hoc* that the portion of land which we hold was ever subjected to payment or assessed in any other manner within the tithing

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SCHARS. La paroule est remue ceins a ore, et le A.D. 1346. quel qe la paroule soit faux ou veritable nest pas a parler a ore; par quei responez.—*Huse.* Jugement del avowere: qar il ad suppose qe nous fumes assis a cele somme pur quel il avowe, et nad pas dit pur quei nous fumes assis; jugement.—*Grene.* Nous ne deymes pas qe vous fustes assis, mes qe vostre porcion amonta a tant, come nous avoms avowe.—*Birtone.* Nostre porcion ne poet estre leve taunqe nous soioms assis par asseours en un certeyn; par quei, en taunt come vous avetz avowe la prise pur cele cause saunz asserement, lavowere pecche.—*WILBY.* Il dit qe solonc la quantite de voz terres et biens vostre porcion amont a cele summe; et il ad avowe, come ministre le Roi, de chose diwe al Roi, en quel cas il entent qe, saunz asserement, solonc sa estimacion il le purra lever; et, en cas qil eit assumme vostre quantite plus qe resoun ne voet, vous averez plee a vous descharger del surplus; par quei respondez.—*Huse.* Nous dioms qe mesme la terre si est deinz la dizeyne de B., et nent deinz la dizeine de R., ne nulles biens ne chateaux deinz cele dizeine avioms, mes vous dioms qe deinz la dizeine de B. nostre porcion est leve, et de tut temps deinz cele dizeine taxe; et nous dioms qe lan xv. le defendant prist une destresse de nous, come dizeiner de R., pur nostre porcion, et pur reaver noz bestes il nous fist faire fine, pur quel fine faire devant Justices de Traillebastoun¹ nous recoverimes² noz damages, saunz ceo qe en autre manere fut la porcion de la terre qe nous tenoms unques paie ou³ taxe deinz la dizeine

¹ H., Traillastoun.² H., resceimes.³ I., ne.

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A.D 1346. of R., except on that occasion by the payment of the fine, which was afterwards redressed by judgment; and we do not understand that he can as dozener of R. avow the distress for that cause.—*Grenc.* And we say that the tenants of the land of which you are tenant have been assessed within the tithing of R. for their goods and chattels within the same tenement, and that the sum has been levied by the dozeners of R.; and that we are ready to verify.—*Huse.* That none of the ter-tenants nor we ourselves were ever assessed, and that nothing was levied from us within the tithing

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de R. [fors qe a cele foithe pur la fyn faire, quel A.D. 1346. apres fuist puny par jugement; et nous nentendoms pas qil come dizeyner de R. poait par cele cause la destresse avowere.¹—*Grene*. Et nous dioms qe les terre tenantz de qi vous tenetz pur lour biens et chateux deinz mesme le tenement ount este taxez deinz la dizeyne de R.],² et par les dizeiners de R. la summe leve; et ceo sumes prest daverer.³—*Huse*. Qe nul des terre tenantz ne nous unqes estoïoms taxez ne de nous leve deinz la dizeyne

¹ The plea was, according to the record, "quod anno regni domini "Regis nunc undecimo quoddam "subsidiū triennale concessum "fuit eidem domino Regi, et ad "subsidiū illud levandum certi "homines fuerunt deputati in "Comitatu prædicto qui ipsum "Thomam pro portione ipsum contingente pro terris et tenementis "suis prædictis et rebus suis in "eisdem existentibus distrinxerunt "ad solvendum cum hominibus de "Alwyneshaghe, et ipsum vi et "armis ad portionem illam solvendam compulserunt, per quod ipse "Thomas postmodum per viam "juris tantum prosecutus fuit "versus eosdem collectores et "assessores triennalis prædicti "quod ipsi eidem Thomæ de "transgressionem prædictam et extortionem satisfecerunt, ubi prædictus Philippus supponit ipsum "Thomam dedisse et contribuisse "ad hujusmodi talliagium cum "illis de decenna de Alwyneshaghe "pro terris et tenementis prædictis, ipse Thomas nec aliquis "alius quorum statum ipse habet "in tenementis prædictis unquam "solebat aliquid solvere ad hujusmodi talliagium cum illis de "decenna de Alwyneshaghe præ-

"dicta nisi tantum illa vice quando "solutio inde facta fuit per extortionem in forma qua ipse superius "allegavit. Et hoc paratus est "verificare, &c."

² The words between brackets are omitted from H.

³ Philip's replication was, according to the record, "quod prædictus "Thomas et omnes illi quorum "statum idem Thomas habet in "prædictis tenementis semper solent dare et contribuere ad hujusmodi talliagium cum hominibus "de decenna de Alwyneshaghe pro "prædictis terris et tenementis ac "bonis et catallis in eisdem existentibus, sicut ipse in advocare "suo prædicto supponit."

Issue was joined upon this, and the *Venire* was awarded.

"Et quo ad prædictos quatuor "porcos, &c., prædictus Thomas "de Lynde dicit quod postquam "porci illi capti fuerunt ipse non "potuit habere visum de eisdem, "per quod dicit quod porci illi "mortui sunt in defectu prædicti "Philippi, et non in defectu ipsius "Thomæ."

Issue was joined upon this also, and the *Venire* was awarded.

Nothing further appears on the roll.

Nos. 19-21.

A.D. 1346. of R., except that once when we paid a fine, for the payment of which fine we recovered our damages, ready, &c.—And the other side said the contrary.

Aiel. (19.) § A writ of Aiel was brought in respect of ten acres of land.—*Birton*. We say that heretofore he brought a like writ against us, and demanded a moiety of a fishery in the river Lea, upon which we made default, and the *Cape* issued, and the same land as that which is now demanded was then put in view, and afterwards we performed our law as to non-summons, and for that reason the writ abated, and this writ has been purchased while the other was pending; judgment of the writ.—*Notton*. Since we now demand land, and the other demand was of a fishery, which cannot be the same thing as that which we demand now, we therefore demand judgment, and seisin of the land. — *WILLOUGHBY*. A fishery cannot be land, nor *e contra*; therefore answer.—*Birton*. The grandfather did not die seised; ready, &c.

The prayee in aid vouched. (20.) § A tenant for term of life prayed aid of the reversioner, who was ready in Court on the same day, and joined himself with the tenant, and vouched the person who had granted the reversion to him. And he was admitted to vouch notwithstanding the fact that the prayee in aid had not appeared in virtue of process. And it was said that the voucher was thus made in haste in order to prevent the vouchee making a conveyance of his land, &c.

Essoin. (21.) § Thomas Longevillers brought a writ by different *Præcipes* against different persons. One tenant vouched, and the *Sequatur suo periculo* was awarded against the vouchee. And on the *Præcipe* on which the tenant vouched they had one day, and on the other *Præcipes* another day. And on

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de R. sauve cele unfoitz qe nous feimes .fyne, et A.D. 1346. pur quele fyne faire nous recoverimes nos damages, prest, &c.—*Et alii e contra.*

(19.)¹ § Brief Daiel porte de x. acres de terre.—Aiel. *Birtone.* Nous dioms qe autrefoitz il porta autiel ^[Fitz., Briefe, 685.] brief vers nous, et demanda la moite de la pescherie del eawe de Leye, ou nous feimes default, et le *Cape* issit, et mesme la terre ore demande adonques² mys en vewe, et puis nous feymes³ la leye de noun somons, par quei le brief abatist, et ceste brief purchace pendant lautre ; jugement de brief. — *Nottone.* Puis qe nous demandoms ore terre, et lautre fut de pescherie, qe ne poet estre mesme la chose qe nous demandoms a ore, par quei nous demandoms jugement, et seisine de terre.—*Wilby.* Pescherie ne poet estre terre, *nec e contra* ; par quei responez. — *Birtone.* Laiel ne murust pas seisi ; prest, &c.

(20.)¹ § Tenant a terme de vie pria eide de celi ^{Le prie en eide voucha.⁴} en reversion, qe fut prest en Court a mesme le jour, et se joint, et voucha celi qe luy avoit grante la reversion.² Et resceu nient countre esteaunt qe le ^[Fitz., Joindre en Ayde, 12.] prie en eide ne vint pas par proces. Et fust dit qe le vouchier fut fait si en haste pur ouster al vouchier qil ne freit pas demise de sa terre, &c.

(21.)¹ § Thomas Longevillers porta brief par divers ^{Essone.} *Præcipe* vers divers gentz. Un tenant voucha, ^{[Fitz., Non suit,} et *Sequatur suo periculo* agarde vers le vouchier. ^{27.]} Et en le *Præcipe* ou le tenant voucha ils avoient un jour, et en les autres autre jour. Et al

¹ From H., and I.

² adonques is omitted from I.

³ I., fimes.

⁴ The marginal note is from H. alone.

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A D. 1346. one of the *Præcipes* Thomas was nonsuited. And now the tenant who vouched demanded judgment, on Thomas's nonsuit, with regard to all the *Præcipes* by reason of the nonsuit on one.—And it was said by HILLARY that, if he had had one day on all the *Præcipes*, nonsuit on one would have been nonsuit on all; but now he had different days, and therefore the nonsuit on this day will determine only that which has been pleaded on this day.—Therefore a common essoin was cast for the tenant.—And exception to it was taken by *Thorpe*, on the ground that, inasmuch as the Court was apprised that he had not sued against the vouchee, and therefore his tenancy was lost without anything further, therefore an essoin did not lie for him.—HILLARY. This is a case in which if the tenant comes into Court he will lose his land, and if he makes default he will save it, and therefore, unless you can show that he has been essoined since the voucher, we shall now adjudge the essoin.—And in the end the essoin was adjudged, and a day was given.¹

Dower. (22.) § On a writ of Dower, *Richemunde*, for the tenant, vouched one J., son and heir of the husband.—*Skipwith*, for J., appeared on the same day, and entered into warranty as one who had nothing by descent in fee simple, and rendered dower to the woman.—*Richemunde*. We say that this is not the same person that we have vouched; ready, &c.—And he was not admitted to this without assigning a diversity of father or mother.—Therefore he said that the person who proffered himself was the son of a stranger, and not the son of the husband, and so not the same person; ready, &c.—*Skipwith*. The same person that you have vouched; ready, &c.—And the issue was accepted, &c.

No. 22.

autre *Præcipe* Thomas fut nounsuy. Et ore le tenant A D. 1346. que voucha demanda jugement de sa nounsute as touz les *Præcipe*, par la nounsute del un.—Et fust dit par HILL. que sil ust eu un jour a touz les *Præcipe* que nounsute a un serreit nounsute a touz; mes a ore il avoit divers jours, par quei la nounsuyte a cel jour terminera mes ceo que fust plede a cel jour.—Par quei un comune essone fust gettu pur le tenant.—Et chalaunge par *Thorpe*, de ceo que par taunt que Court est apries que il nad pas suy vers le vouche, et par taunt sa tenance perdu saunz plus, par quei essone pur luy ne gist mye.—HILL. Ceo est un cas la ou si le tenant viegne en Court il perdra sa terre, et sil face defaute il le sauvera, et pur ceo, si vous ne poetz moustrer qil eit este essone puis le voucher, nous lajuggeroms a ore.—Et au drein lessone fust ajugge et ajourne.

(22.)¹ § En Dowere *Rich.*, pur le tenant, voucha ^{Dowere.} un J., fitz et heir le baron.—*Skip.* pur J., vient a ^{[Fitz.,} mesme le jour, et entra en la garrantie come celi que ^{Voucher,} ^{128.]} rienz navoit par descente en fee simple, et rendi dowere a la femme.—*Rich.* Nous dioms qil nest pas mesme la persone que nous avoms vouche; prest, &c.—Et nent resceu saunz doner diversite de pere ou de mere.—Par quei il dit que celi que se profri est le fitz un estraunge, et ne mye le fitz² le baron, et issi nent mesme la persone; prest, &c.—*Skip.* Mesme la persone que vous avetz vouche; prest, &c.—Et lissue resceu, &c.

¹ From H., and I., until otherwise stated. | ² H., fitz.

Nos. 23, 24.

A.D. 1346. § Note that a writ was brought against a tenant, Voucher. whereupon the tenant vouched to warrant, and to the summons there appeared one who said that he was the person whom the tenant had vouched, and was ready to warrant, and to render dower to the woman, as one who had nothing by descent.—And the tenant said that he was not the same person, and assigned diversity of person, and the issue was accepted.—But *quare* to what purpose this issue is taken, for if the verdict pass for the tenant to the effect that he is not the same person as the person vouched, then it is right that the demandant should recover, and that the tenant should not recover over to the value, because it is not the person whom he has vouched; and if the finding be against the tenant to the effect that it is the same person, he will lose the land.—But the practice used to be that the diversity which the tenant assigned was entered, and the person who appeared was absolved, and process was made against the other who did not appear.¹

Right. (23.) § On a writ of Right the mise was joined, and the half-mark was tendered for the time,² and pledges thereof were found immediately.

Ravish-
ment of
Ward. (24.) § Robert de Hakebeche brought a writ of Ravishment of Ward, and counted that the infant's ancestor held two acres of land of one J.³ by knight service, and that J.³ leased the wardship to him.—The defendant said, by *Grene*, that the infant's ancestor

¹ See further Y.B., Mich., 20 Edw. III., No. 78.

² For the meaning of this, see Fitz., *Droite*, 26.

³ For names and further particulars, see the record of the declaration printed Y.B., Mich., 16 Edw. III., p. 345, note 9.

Nos. 23, 24.

§ *Nota*¹ qun brief fuit porte vers un tenant, ou le A.D. 1346.
 tenant voucha a garraunt, et a la Somons vynt un, Voucher.
 et dit qil fuit celuy qe le tenant avoit vouche, et
 fuit prest de garrauntir, et rendre dower a la femme,
 come celuy qe rienz navoit par descente. — Et le
 tenant dist qil ne fuit mie mesme la persone, et
 dona diversite de persone, et lissue resceu. — *Sed*
quere a quel effecte ceste issue est² pris, qar sil
 passe pur le tenant qil nest pas mesme la persone
 qest vouche, donques est il resoun qe le demandant
 recovere, et le tenant mie en la value, pur ceo
 qil ne est pas la persone qil ad vouche; et,
 si trove soit countre³ le tenant qe mesme la
 persone, il perdra terre. — Mes homme soleit
 entrere la diversite quel le tenant dona, et il
 assouth qe vint, et proces fait vers lautre⁴ qe ne
 vint pas.

(23.)⁵ § En brief de Dreit la myse fust joynt, et Dreit.
 demi marc pur le temps fut tendu, et plegges de [Fitz.,
 ceo tantost trovez. Drouite, 16.]

(24.)⁶ § Robert de Hakebeche⁸ porta brief de Ravissement
 Ravissement de Garde, et counta qe launcestre de Garde.⁷
 lenfant tient ij. acres de terre dun J. par service [Fitz.,
 de chivaler, le quel J. luy lessa la garde. — Le Garde, 41.]
 defendant dit, par *Grene*, qe launcestre lenfant tient

¹ This report of the case is from L., and C.

² C., estre.

³ L., vers.

⁴ L., celuy.

⁵ From H., and I.

⁶ From H., and I., until otherwise stated. The reports are in continuation of Y.B., Mich., 16 Edw. III., No. 24 (pp. 344-349). The record is among the *Placita de Banco* of that Term, R^o. 190. The

action was brought by Robert de Hakebeche against Saier de Ryche-ford in respect of the wardship of Thomas son and heir of Richard Fitz John.

⁷ The words de Garde are omitted from I.

⁸ H., Holbeche; I., Hollebeche. The tenements in respect of which wardship was claimed were alleged by the defendant to be in Holbeach (Lincolnshire).

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A.D. 1346. held one acre of land of him by knight service, and said that a composition was made between him and J. to the effect that, by reason of the smallness of the tenements held of them, the infant should live with one J. for a certain time, and with the defendant for another time; and he said that the infant was living with him, in accordance with the composition, at the time at which the plaintiff supposed the ravishment to have been effected; and he said that the plaintiff had previously married the infant, and so had received the profit of his purchase; and he demanded judgment whether the plaintiff ought now to maintain this writ against him.—*Pole*. And we demand judgment, since you have confessed that the infant's ancestor held of J. whose estate we have, and you do not affirm any right of wardship in you; therefore it does not lie in your mouth to plead such matter. And, even if it should lie in your mouth to plead that, it seems to us that, although the infant was married by us, and his wife is married to him, he will be in our wardship, and therefore our action to recover the wardship can be maintained.—*WILLOUGHBY*. If a writ of Ravishment is brought against an infant's father by reason of land which the mother's ancestor held, he may well allege that the marriage does not belong to the plaintiff, because the infant is his son, and will have an inheritance from him, without affirming any right in himself; and for the same reason, since you are a purchaser, and that in respect of the marriage, and you have received the profit of the marriage, and they have tendered an averment to that effect, and you have not denied it, the COURT doth therefore adjudge that you take nothing by your writ, &c.

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une acre de terre de luy par service de chivaler, A.D. 1346. et dit qe composicion se prist entre luy et J. qe pur la petitesse des tenementz de eux tenuz qe lenfaunt demureit ove un J. un certain temps, et od le defendant un autre temps; et dit qe lenfant demura od luy, solonc la composicion, a mesme le temps qe il ad suppose le ravissement; et dit qe de temps avant le pleintif avoit marie lenfant, et issi ad eu le profit de son purchas; et demanda jugement si a ore vers luy il duist ceste brief meyntenir.¹—*Pole.* Et nous demandons jugement, puis qe vous avetz conu qe launcestre lenfant tint de J. qi estat nous avoms, et vous naffermez pas dreit de la garde en vous; par quei en vostre bouche ne gist il pas de tiele chose² pleder. Et, mes qil girreit, il nous semble qe, coment qe lenfant fust par nous marie, et sa femme soit marie, qil serra en nostre garde, par quei nostre accion a recoverir la garde est meyn-tenable.—*WILAY.* Si le brief de Ravissement soit porte vers le pere lenfant par resoun de terre qe launcestre la mere tint, il alleggera bien qe le mariage nattient pas al pleintif pur ceo qe il est soun fitz et serra enherite par luy saunz affermer en luy dreit; et par mesme le resoun, puis qe vous estes purchaceour, et ceo del mariage, et le profit de ceo vous avetz eu, quele chose ils ount tendu daverer, et vous ne lavetz pas dedit, par quei la COURT agarde qe vous ne preignez rienz par vostre brief, &c.³

¹ For the record of the plea, see Y.B., Mich., 16 Edw. III., p. 347, note 6.

² chose is omitted from H.

³ For the record of the conclusion of the case, see Y.B., Mich., 16 Edw. III., p. 349, note 10.

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A.D. 1346. § Conclusion of the plea between Robert de Hakebeche and Saier de Rycheforde.—*Grene*. You have plainly heard how he has claimed this wardship by reason of purchase, and he complains of a ravishment, to which we have said that he married the infant to his own daughter, and so he has had the full benefit of his purchase; for neither his purchase nor his present demand is of anything else than the marriage; and with respect to that he has been satisfied, and this he has not denied, and therefore we demand judgment, &c.—*Pole*. You see that he is a stranger, and does not claim anything in the wardship of the body, and does not say that the wardship does not belong to us, and he does not affirm any right in his own person by reason of which he ought to have the marriage; and his statement that the infant was married by us does not lie in the mouth of anyone except in the mouth of the infant, to whose damage it would be to have been previously married in case we should tender him a marriage, and it would not be to the damage of anyone else; therefore we do not understand, since he has allowed that the wardship belongs to us, that this plea lies in his mouth.—*Birton*. And if you bring a writ of Ravishment of Ward against me, and recover the value of the marriage against me, if the infant be at the same time married, and his wife dies afterwards, you will never again have a writ of Ravishment against me, because you have had the full benefit of that which you demand; so also in this case, since the infant was married by you, you have had the full benefit of your purchase.—*WILLOUGHBY*. You do not demand by this writ anything but the value of the marriage, and he has said that with regard to that you have been

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§, *Residuum*¹ *placiti inter Robertum de Hakebeche* A.D. 1346.
et Saerum de Rycheforde.²—*Grene*. Vous avietz bien *Residuum*
entendu coment il ad clame ceste garde par resoun *placiti*
de purchace, et se pleint dun ravissement, ou nous *inter*
avoms dit qil maria lenfant a sa fille demene, issint *Robertum*
ad il leffecte de soun purchace; qar soun purchace³ *de [Hake-*
ne sa demande nest rienz autre fors le mariage, et *beche] et*
de ceo est il servy, et ceo nad il pas dedit, par quei *Saerum de*
nous demandoms jugement, &c.—*Pole*. Vous veietz *Ryche-*
coment il est estrange, et rienz ne cleyme en la *forde*.²
garde de corps, et ne dit mye qe la garde nattient
a nous, et il nafferme nulle dreit en sa persone par
 quei il duist aver le mariage; et ceo qil parle qe
lenfant fuit marie par nous ceo ne git pas en nully
bouche fors en bouche lenfaunt, en qi damage ceo
serreit destre⁴ autrefoith marie en cas qe nous luy
tendimes mariage, et en nully autri damage; par
 quei nentendoms mie qe ceo ple, de puis qil ad
graunte qe la garde attient a nous, en sa bouche
gise. — *Birtone*. Et si un homme porte brief de
Ravissement de Garde vers moi, et recovere la value
del mariage vers moi, si lenfant soit marie a mesme
ceo temps, et sa femme devie puis, jammes naveretz
autrefoith brief de Ravissement vers moi, pur ceo qe
vous avietz leffecte qe vous demandetz; auxi ici,
quant lenfaunt fuit marie par vous, vous avietz
leffecte de vostre purchace. — *WILBY*. Vous ne
demandetz pas par cest brief forqe la value del
mariage, et il ad dit qe de ceo vous estes servy;

¹ This report of the case is from
L. and C.

² MSS. of Y.B., Rocheforde.

³ The words qar soun purchace
are omitted from L.

⁴ L., demande.

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A.D. 1346. satisfied; and, if the infant were a party to you, he would bar you of an action of Forfeiture of Marriage, because you have married him, and for the same reason so will he do who now pleads. And, since you do not deny that you married him, in which case you have had the full benefit of that which you demand, and particularly where you are a purchaser, so that the infant is out of wardship now that he is married, and you have not denied that he was married by you, and so you have been satisfied with respect to your demand, this Court doth adjudge that you do take nothing by your writ, &c.

Formedon. (25.) § A writ of Formedon was brought against Richard, son of John Smyth, who vouched to warrant one J., son and heir of A., who was under age, and (said Counsel for the tenant) we pray that the parol do demur until his full age.—*Richemunde*. Whereas you vouch him as heir of A. and attempt to put the parol without day by reason of his non-age, we tell you that J. is a bastard; judgment whether you shall be admitted to vouch him.—*Skipwith*. We do not confess that, but we tell you that he has entered upon the inheritance since the death of A., as son and heir, and we demand judgment whether you shall be admitted to allege bastardy in him.—*Seton*. You ought never to delay me of my action except by reason of the non-age of the person who is heir, and, since we have disproved that by the bastardy alleged in his person, which you do not deny, judgment whether, &c.—*Skipwith*. If J. were of full age, and I were to bind him to warranty by A.'s deed, as A.'s heir, and if he wished to say that he was a bastard, I should say that he could not be admitted to do that, because he is in possession as heir, and for the same reason with regard to you I shall have the voucher as of the heir on the

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et, si lenfant fuit partie a vous, il vous barreit A.D. 1346.
daccion de Forfeture, pur ceo qe vous luy avietz
marie, et par mesme la resoun celuy qore plede.
Et de puis qe vous ne deditetz mye qe vous ne
luy mariastes, en quel cas vous avietz leffecte
demande, et nomement la ou vous estes purchaceour,
issint lenfant hors de garde meintenant¹ quant il
est marie, et vous navetz pas dedit qil ne fuit
marie par vous, issint estes servy de vostre demande,
ceste COURT agarde qe vous ne preignetz rienz par
vostre brief, &c.

(25.)² § Forme de doun porte vers Richard le fitz Forme-
doun.
[Fitz.,
Foucher,
129.]
Johan Smyth, qe voucha a garrant un J. fitz et
heir A., qest deins age, et prioms qe la paroule
demurge, &c. — *Rich.* La ou vous luy vouchez
come heir A., et estes a metre la paroule saunz
jour par son nounage, la dioms nous qe J. est
bastard; jugement si a luy voucher serrez resceu.—
Skip. Nous conissons pas cele, mes nous vous
dioms qil est entre apres la mort A. en leritage,³
come fitz et heir, et demandoms jugement si
dallegger bastardie en luy serretz resceu.— *Setone.*⁴
Vous ne deivetz moy jammes delaier de ma accion
sil ne soit par le nounage celuy qest heir, et, puis
qe nous avoms desprove cele par la bastardie en luy
allegge, quele chose vous ne dedites pas, jugement
si, &c.—*Skip.* Si J. fust de plein age, et jeo luy
liasse a la garrantie par le fait A. come heir a luy, sil
vousist dire qil fut bastard, jeo dirrai qil navendra pas
pur ceo qe il est einz come heir, et par mesme la
resoun vers vous jeo averay le voucher come de heir

¹ L., nomement.

² From H., and I., until other-
wise stated.

³ I., le heritage.

⁴ I., STON.

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A.D. 1346. possession which is not denied by you. — *Grene.*

That case is not like our matter, for the bastard himself can never say that he is a bastard, because he has taken the profits of the land as heir; but we, who are a stranger to him, are not debarred by his possession from alleging bastardy in his person; for if we had said that he was not A.'s heir, that would not constitute an issue, unless we answered whether he was A.'s son or not; therefore, since we have now said that he is a bastard, and therefore neither A.'s son nor A.'s heir, that is sufficient, for if we are not permitted to allege that he is a bastard, and we counterplead the voucher according to the form of the statute,¹ that is to say, that neither he who is vouched nor any of his ancestors ever had anything, &c., by that counterplea we shall confess that he has an ancestor, and shall thereby be ousted for ever from bastardising him; therefore we must have that counterplea of bastardy now.—

WILLOUGHBY. Law and right are to the effect that he should have his voucher, and, if he were to vouch the mulier, he would not have anything to the value, because the bastard is seised of the whole; and it is not for a stranger to acknowledge bastardy, but to vouch as heir the person who is in possession of the inheritance as heir; therefore, since it is not for him to acknowledge any other to be heir but the person who is seised, the voucher with regard to him is permissible; therefore, if you have nothing else to say, we shall allow the voucher.

Formedon. § A man brought a writ of Formedon in the descender against a woman, and the woman said, by *Skipwith*, that she held the tenements in dower by endowment of one J., her husband, the reversion being regardant to one T., son and heir of the same J.,

¹ 3 Edw. I. (Westm. 1), c. 40.

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de la possession quele nest pas dedit de vous.—A.D. 1346.

Grene. Nent semblable a nostre matere, qar le bastard mesme ne dirra pas qil est bastard, pur ceo qil ad pris les profitz de la terre come heir; mes nous, qe sumes estraunge a luy, ne sumes pas forclos par son mainoevre dallegger bastardie en luy; qar si nous ussoms dit qil ne fut leir A. il ne serreit pas issue saunz respondre le quel il fut son fitz¹ ou nent; par quei, puis qe nous avoms ore dit qil est bastard [et par taunt nent son fitz ne son heir, ceo suffit, qar si nous naveroms dallegger qil est bastard],² et nous countrepledoms le voucher par forme destatut, saver, qe celuy qest vouche ne nul de ses auncestres³ navoient unques rienz, &c., par cel countreplee nous conustroms qil ad auncestre, et par taunt serroms oustez pur touz jour de luy bastarder; par quei il covent qe nous leioms a ore.—*WILBY.* Leie et resoun voet qil eit son voucher, et, sil vouchast le muliere, il naveroit rienz a la value, pur ceo qe le bastard est seisi de tut⁴; et a luy qest estrange nest a conustre, mes celuy qest eins en heritage⁵ come heir de luy voucher come heir; par quei, puis qil nest pas a lui⁶ a conustre autre estre heir forqe luy qest seisi, le voucher vers luy est suffrable; par quei si vous neietz autre chose a dire nous granteroms le voucher.

§ Un⁷ homme porta un brief de Fourme de doun en descendre vers une femme, et la femme dit par *Skip.* qele tient les tenementz en dowere del dowement un J., soun baroun, la reversion regardant a un T. fitz et heire mesme celuy,

¹ H., filis.

² The words between brackets are omitted from I.

³ L., heirs.

⁴ L., terre.

⁵ I., le heritage.

⁶ The words a lui are omitted from I.

⁷ This report of the case is from L., and C.

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A.D. 1346. and in respect of such an estate she vouched him to warrant. And, said *Skipwith*, he is under age, and we pray that the parol do demur until his full age.—*Richemunde*. Whereas he vouches T., son and heir of J., we tell you that he ought not to be admitted to such a voucher, for we tell you that T. is a bastard, and we demand judgment, &c.—*Skipwith*. He does not counterplead our voucher by common law, or by statute, wherefore, &c. And if the person whom we have vouched were of full age, that would be no counterplea, for we might be able to bind him for another cause when he appears, and so we may in this case, and therefore it is not right to give the demandant this counterplea.—*WILLOUGHBY*. You have vouched T. as being under age, and as heir, so that, if the demandant had not this counterplea, it would be a great mischief for him, because the parol would then demur until T.'s full age, which would be contrary to what is right if he is a bastard, as the demandant has said; and we understand that the cause for which he is vouched is that he is heir, and that cause the demandant has disproved, and therefore it seems that the counterplea is sufficiently good, &c.—*Skipwith*. We tell you that the person whom we have vouched has entered upon the inheritance after the death of J., his father, and is seised as heir, and therefore we cannot vouch any one but him in order to have to the value, and therefore we demand judgment, and pray our voucher.—*Grene*. He has said that the person whom you vouch as heir is a bastard, and even though the mulier may have permitted the bastard to enter upon the inheritance, it is not for that reason right, with regard to us, that he should put us to delay by his permission, for the mulier can oust the bastard at his pleasure, and, therefore, although he says that T. is seised of the inheritance,

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et de tiel estat luy voucha a garraunt, qest deinz A.D. 1346. age, et prioms qe la parole demurge tanqa soun age.—*Rich.* La ou il vouche T. fitz et heir J., nous vous dioms qa tiel voucher il ne deit estre resceu, qar nous vous dioms qil est bastarde, et demandoms jugement, &c.—*Skip.* Il ne contreplede pas nostre voucher par comune ley, ne par statut, par quei, &c. Et, sil fuit de plein age, celuy qe nous avoms vouche, ceo ne serreit mie countreplee, qar nous luy poms¹ lier² par autre cause quant il vendra, et issint poms en ceo cas, et pur ceo il nest pas resoun de luy doner ceo countreplee.—*WILBY.* Vous luy avietz vouche comme deinz age, et comme heire, issint qe sil nust ceo countreplee il serreit grand meschief pur ly, qar donques demureit³ la paroule tanqa soun age, qe serreit countre resoun sil soit bastarde comme il ad dit; et nous entendoms qil est est vouche par cause qil est heire, et cele cause ad il desprove, par quei il semble qe countreplee est assetz bone, &c.—*Skip.* Nous vous dioms qe celuy qe⁴ nous avoms vouche si est entre en leritage apres la mort J. soun pere, et seisi est comme heire, par quei autre qe celuy nous ne poms voucher daver en value, par quei nous demandoms jugement, et prioms nostre voucher.—*Grenc.* Il ad dit qe celuy qe⁴ vous vouchez⁵ comme heire est bastarde, et, tut eit le mulure soeffert le⁶ bastarde entrere en leritage, par tant nest il pas resoun, devers nous, qil nous mette en delaye par sa soeffraunce, qar il luy poet ouster a sa volunte, par quei, tut die il qil soit seisi del heritage, et come heire,

¹ L., avoms.² L., lie.³ L., demurreit.⁴ L., qi.⁵ C., avietz vouche.⁶ le is omitted from L.

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A.D. 1346. and that as heir, yet since he does not deny that T. is a bastard, it is not right that the tenant should have voucher of T. so as to delay us until his full age.—HILLARY. If he has entered upon the inheritance, and is seised, the tenant cannot have to the value otherwise than against him, so that her voucher is properly given against him, and against no other.—R. Thorpe. If an elder son, who is of full age, permits a younger son, who is under age, to enter upon the inheritance, I say that, if anyone vouches the younger, and prays that the parol may demur until his full age, the demandant will not have a good counterplea, on the ground of the delay, to say that he has an elder brother living, and I say that the elder brother will never put me to delay by permitting the entry of the younger; no more in this case.—WILLOUGHBY. In the case which you put the younger brother cannot be heir to the ancestor by continuance in possession when he has an elder brother; but the bastard by continuance in possession can be heir, so that the voucher of him is good when he is seised of the inheritance; and you will never compel the tenant to vouch anyone against whom she cannot have anything to the value; therefore her voucher, on the matter which she has shown, must be maintained against the person who is in possession of the inheritance, even though he be a bastard; and, therefore, unless you will say something else, we will allow her the voucher for anything that you have yet said.—And afterwards the parties took a day by *Prece partium*, &c.

*Scire
facias.*

(26.) § A *Scire facias* was sued against one J. de R., chaplain of a chantry in the church of A., upon a fine of certain land. — *Grene* said that he found the chantry seised of the same land, and that he had the chantry by collation from the Prior

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de puis qil ne dedit pas qil est bastarde, il nest A.D. 1346.
mie resoun qil eit voucher de luy, de nous delaier
tange a soun age.—HILL. Sil soit entre en leritage,
et seisi, ele ne poet aver en value forqe devers luy,
issint qe proprement soun voucher si est done
devers luy et devers nulle autre.—*R. Thorpe*. Si
leigne, qest de pleine age, soeffre le puisne, qest
deinz age, entrere en leritage, jeo die qe, sil vouche
le puisne et qe la parole demurge, &c., navera pas
bone countreplee pur le delaie a dire qil ad un
eigne frere en vie, et par sa soeffraunce il ne moy
mettra jammes en delaye; nient plus en ceo cas.—
WILBY. En le cas qe vous mettez il ne poet pas
estre heire al auncestre par continuaunce la ou il
ad eigne frere¹; mes le bastarde par continuaunce
poet estre heire, issint qe de luy le voucher est
bon² quant il est seisi del heritage; et vous ne luy
chaceretz jammes de voucher celuy vers qi ele ne
poet aver rienz en value; par quei soun voucher, sur
la matere quele ele ad moustre, covient estre
meintenu vers celuy qest einz en leritage, tut soit
il bastarde; par quei, si vous ne voletz autre chose
dire, nous voloms graunter a luy le voucher pur
rienz qe vous avetz dit unqore.—Et puis les parties
pristrent jour par *Prece partium, et cetera*.

(26.)³ § *Scire facias* suy vers un J. de R., chapeleyn *Scire*
dune chaunterie en leglise de A., hors dune fyne de *facias*.
certeyne terre.—*Grene* dit qil trova la chaunterie seisi *[Fitz.,*
de mesme la terre, quel chaunterie⁴ il ad de la collacion *Aide, 30.]*

¹ L., friere.² L., done.³ From H., and I.⁴ L., terre.

Nos. 27, 28.

A.D. 1346. of Bolton, and he prayed aid of the Prior as patron, and of the Archbishop of York as Ordinary.—*Husc.* He ought not to have aid, for the object of our suit is to defeat his name (of chaplain), and all that he has by reason of the chantry; therefore, &c.—*SHARSHULLE.* That is not a cause for ousting him from the aid; therefore let him have the aid.

Annuity. (27.) § An annuity was recovered. The plaintiff sued a *Fieri facias*. The Sheriff returned that the defendant had nothing, &c. The plaintiff prayed an *Elegit*. And, because he had elected to have a *Fieri facias*, he could not have an *Elegit*. Therefore he had an *Alias Fieri facias*. And the plaintiff said that one term of the annuity had passed since the issue of the *Fieri facias*, and prayed an *Elegit* in respect of that term. And he had it.

Formedon. (28.) § A Formedon in the descender was brought in respect of a manor.—*Thorpe.* We do not admit the gift, but we say that this same J. to whom you have supposed the gift to have been made was seised of two acres of land as parcel of the same manor, and gave the two acres of land to one R., which R. is, this day, seised of the two acres, and so was on the day on which the writ was purchased, and he is not named in the writ; judgment, &c.—*Derworthy.* We say that you are fully tenant of the manor, in demesne as in demesne, in service as in service, and in alms as in alms; ready, &c.—*Thorpe.* And, since we have alleged that the person to whom he supposes that the gift was made was seised of the two acres as parcel of the manor, and gave them to R., who was seised on the day on which the writ was purchased, and so is, this day, and the issue which the demandant tenders is not in contradiction of the estate which we have affirmed

Nos. 27, 28.

le Priour de Boltone, et pria eide del Priour come de A.D. 1346. patroun, et del Ercevesqe¹ de E. come Ordiner.—*Huse*. Eide ne deit il aver, qar par nostre sute nous sumes a defaire son noun, et quant qil ad par resoun de la Chaunterye; par quei, &c.—*SCHARS*. Ceo nest pas cause de luy ouster del eide; par quei eit leide.

(27.)² § Une annuyte fust recoveri. Le pleintif Annuite. suyst le *Fieri facias*. Le Vicounte retourna qil navoit rienz, &c. Le pleintif pria le *Elegit*. Et, pur ceo qe il avoit eslu le *Fieri facias*, il ne poait mye aver le *Elegit*. Par quei il avoit *Sicut alias*. Et le pleintif dit qun terme del annuite fust passe puis le *Fieri facias*, et pria de cel terme le *Elegit*. Et lavoit.

(28.)³ § Forme de doun en descender porte dun maner.—*Thorpe*. Nous ne conissons pas le doun, mes nous dioms qe mesme celuy J. a qi vous avetz suppose le doun estre fait fust seisi de ij. acres de terre come parcelle de mesme le maner,⁴ et dona les ij. acres de terre a⁴ un R. [le quel R. est huy ceo jour seisi de les ij. acres, et fust le jour de brief purchace],⁵ nent nome en le brief; jugement, &c.—*Der*. Nous dioms qe vous estes pleinement tenant del maner, en demene come en demene, et en service come en service, en almoigne come en almoigne⁶; prest, &c.—*Thorpe*. Et de puis qe nous avoms allegge qe celuy qil suppose a qi le doun se fist fust seisi de les ij. acres come parcelle del maner, et les dona a R., qe seisi fust le jour de brief purchace, et huy ceo jour est, et lissue quel il tende nest pas a contrare lestat quel nous avoms afferme en R.,

Forme de
doun.

[Fitz.,

Mainten-
auns de
Briefs.10.]

¹ I., Evesqe.

² From H., and I.

³ H., purchace.

⁴ H., enfeffa, instead of dona les
ij. acres de terre a.

⁵ The words between brackets
are omitted from H.

⁶ The words come en almoigne
are omitted from I.

No. 28.

A.D. 1346. in R., because he does not tender the averment that R. had nothing, and so his replication is of no avail in support of his writ, we demand judgment.—SHARSHULLE, *ad idem*. He has alleged non-tenure of parcel of the manor held by R., and you tender the averment that the tenant is fully tenant of the manor in demesne and in service, &c., but that may be consistent with what he has said; for if tenant in tail had aliened a part of the manor to R. for his life, to hold of him by a certain rent, and had afterwards aliened the manor to you, you are in that case fully tenant of the manor in demesne and in service, and yet, according to the opinion of some, the non-tenure of parcel will abate the writ. Therefore, if you will admit the matter to be such, and will abide judgment on the question whether the writ is good or bad, it is well; and, if you will not do that, there must be an averment on your part traversing R.'s estate, or else you must confess it to be such as has been stated, and abide judgment on the point; therefore deliver yourself as to where you wish to be.—*Derworthy*. We say that he is fully tenant of the manor, *absque hoc* that R. holds anything by gift from J.; ready, &c.—*Thorpe*. Even though R. does not now hold anything by conveyance from J., yet if he had anything at one time, and divested himself, and afterwards took an estate, we understand that the non-tenure will abate your writ.—WILLOUGHBY, *ad idem*. Whether R. has the two acres by gift from J. or not is not of the substance of the matter, for, if you cannot maintain that the tenant is as fully tenant of the manor as the manor was in J.'s seisin, you do not maintain your writ; therefore, will you maintain it or not?—*Derworthy*. We say that he is fully tenant of the manor, *absque hoc* that R. has anything; ready, &c.—*Thorpe*. Ready, &c., that R. was seised of the two acres on the day on which the writ was purchased.—And so to the country.

No. 28.

gar il ne tende pas daverer qe R. nad rienz, et issi A.D. 1346. sa replicacion ne sert pas son brief, jugement.—SCHARS., *ad idem*. Il ad allegge nountenure de parcelle del maner en R., et vous tendez daverer qil est pleinement tenant del maner en demene et en service, &c., quele chose purra esteer od ceo qil ad dit; qar si tenant en la taille ust aliene parcelle del maner a R. a sa vie, a tenir de luy par certeine rente, et puis il ust aliene le maner a vous, vous estes en cel cas pleinement tenant del maner en demene et en service, et unqore, al entente dasquns, la nountenure de la parcelle abatera le brief. Par quei, si vous voilletz conustre la matere tiele, et demurer en jugement le quel le brief soit¹ bon ou nient, bien est; et, si ceo noun, il covent qe laverement de vostre part del estat R., ou qe vous le conussetz tiel come est parle, et demurer sur le point en jugement; par quei deliveretz vous ou vous voilletz estre.—*Der.* Nous dioms qil est pleinement tenant del maner, saunz ceo qe R. tient rienz du doun J.; prest, &c.—*Thorpe.* Mesqe R. ne tient rienz a ore del lees J., sil les avoit a un temps, et se demist, et a drein prist estat, unqore entendoms qe la nountenure abatera vostre brief.—*WILBY, ad idem.* Le quel qe R. eit les ij. acres de doun J. ou nent, ceo nest pas de² la substaunce de la matere, qar, si vous ne poetz maintenir qil soit auxi pleinement tenant del maner come ceo fust en la seisine J., vous ne maintenez³ pas vostre brief; par quei volez ceo meintener ou nient?—*Der.* Nous dioms qil est pleinement tenant del maner, saunz ceo qe R. rienz ad; prest, &c.—*Thorpe.* Qe R. fuist seisi de les ij. acres jour de brief purchase, prest, &c.—*Et sic ad patriam.*

¹ I., est.² H., a.³ I., meyntiendrez.

No. 29.

A.D. 1346. (29.) § A writ was brought against a man and
Præcipe. "Celota"¹ his wife.—*Mutlow.* We say that the right
name of the wife is Cecilia, and not Celota; judgment
of the writ.—*Moubray.* As to that we tell you that
her name is Celota, and by such name she is known;
ready to verify.—*Mutlow.* If you will aver that her
name is Celota, ready, &c., that it is not. And, if
you will aver that she is known by the name of
Celota, we demand judgment whether you shall be
admitted to such an averment, since you do not deny
that her right name is Cecilia.—*Moubray.* Then you
refuse the averment which we have tendered; and
we demand judgment, since you say nothing else in
answer to our action, and we pray seisin of the land.
—WILLOUGHBY. Will you accept the averment which
Moubray has tendered you?—*Mutlow.* Sir, if he
wishes the averment to be that her right name is
Celota, ready, &c., that it is not. And if he wishes
to waive that, and to aver that she is known by
such a name, we will refuse that averment, since he
does not deny that her right name is Cecilia. And
if on the averment which he tenders you adjudge
his writ good, I shall be ready to answer.—
WILLOUGHBY. Rest assured that we shall record that
you have refused the averment, and, in case we
adjudge that you have wrongly refused it, you
will lose your land; for it is not the same thing
with regard to an averment refused on a plea which
goes to the abatement of a writ as it is with
other pleas which do not fall under the head of
fact. Therefore do you (the clerks) whose business

¹ See p. 559, note 1.

No. 29.

(29.)¹ § Brief porte vers un homme et Sibote sa femme.—*Muttl.* Nous dioms qe le dreit noun la femme est Cecile et ne mye Sibote; jugement du brief.²—*Moubray.* A ceo vous dioms qe son noun est Sibote et par tiel noun conu; prest daverer.³—*Muttl.* Si vous volez averer qe son noun est Sibote, prest, &c., qe noun. Et si volez averer qele est conu par noun de Sibote, nous demandoms jugement si a tiel averement serretz resceu, puis qe vous ne deditez pas qe son dreit noun est Cecile.—*Moubray.* Donques vous refusez laverement quel nous avoms tendu; et demandoms jugement, puis qe autre rienz ne ditez a nostre accion, et prioms seisine de terre.—*WILBY.* Volez laverement qe *Moubray* vous ad tendu?—*Muttl.* Sire, sil voet laverement qe son dreit noun est Sibote, prest, &c., qe noun. Et sil voet weyver cel, et averer qele est conu par tiel noun, nous voloms cel averement refuser, puis qil ne dedit pas qe soun dreit noun est Cecile. Et si par laverement quel il tende vous agarderez son brief bon, prest serroi a respondre.—*WILBY.* Soietz seure qe nous recordrons qe vous avetz refuse laverement, et en cas qe nous agarderoms qe vous avetz malement refuse, vous perdrez vostre terre; qar il nest pas un sur un averement refuse dun plee qe chiet en abatement de brief et des autres plee qe ne chissent pas en fait. Par quei vous qe avetz la

¹ From H., and I., but corrected by the record, *Placita de Banco*, Trin., 20 Edw. III., R^o 178. It there appears that a *Cui in rita* was brought by Margaret late wife of Peter de Rydeware, of Coventry, "versus Celotam quæ fuit uxor "Walteri Chilbeke," in respect of 2s. of rent in Coventry.

² The plea was, according to the record, "Celota venit in propria "persona sua. Et petit judicium

"de brevi. Et, ubi prædicta
"Margareta facit ipsam nominari
"Celotam in brevi sua, dicit quod
"rectum nomen ejus est Cecilia,
"et non Celota, et hoc parata est
"verificare, &c., unde petit judi-
"cium, &c."

³ The replication was, according to the record, "Margareta dicit
"quod rectum nomen ejus est
"Celota, et non Cecilia, et per
"nomen Celotæ cognita est."

No. 30.

A D. 1346. it is enter the plea, and we will consider our judgment on the averment refused, &c.

Recordari. (30.) § A writ of Right patent was brought by one Isabel, daughter of Thomas Balle, directed to the bailiffs of Hereford, of Isabel, Queen of England. The tenant made his suggestion in the Chancery that one J., bailiff of the court, put compulsion on the plaintiff in order to have part of the same land, after she had recovered it, and had a *Recordari* directed to the Sheriff for that cause. The Sheriff now returned the writ, and also the parol which was there pending, and in the return he recited the whole writ. The woman appeared, and accepted the alleged cause for the removal of the parol, and said, by *Sadelyngstances*, that she had made, in the court of Hereford, her protestation that her suit was in the nature of a Mort d'Ancestor, and that she was still ready to maintain that protestation, and prayed the assise.—*Skipwith*. You will not find any protestation returned by the Sheriff, in which case we understand that, if any protestation was made there, she could not make it here; and because this is a writ of Right, and she is in Court, and will not count against us, we demand judgment.—WILLOUGHBY. You talk confusedly about your protestation, for this writ which is returned is not a writ of Right in the form "*quod plenum rectum teneatis secundum consuetudinem manerii*," but is a writ of Right patent, which will always remain with the plaintiff; therefore without that writ we cannot put

No. 30.

bosoigne, entrez le plee, et nous aviseroms del **A.D. 1346.**
jugement sur laverement refuse, &c.¹

(30.)² § Un brief de Dreit patent fut porte par *Recordari.*
une Isabelle, la fille Thomas Balle, directe a les *[Fitz.,*
baillifs Isabelle reigne Dengleterre de Herford. Le *Droite,*
tenant fist sa suggestion en la Chauncellerie qun J., *17.]*
baillif de la Court, fouet le pleintif pur part aver de
mesme la terre, apres qele³ leit recoveri, et avoit un
Recordari al Vicounte sur cele cause. Le Vicounte
a ore retourna le brief, et auxi la parole⁴ qe fut
illoeqes pendaunt, et en le retourne il rehercea tut
le brief. La femme vient et accepta la cause del
remuement, et dit par *Sadel.* qele avoit fait en la
court de Herford sa protestacion [a suire en nature
de Mort dauncestre, et est unqore prest a maintenir]⁵
cele⁶ protestacion, et pria lassise.—*Skip.* Vous ne
troveretz nulle protestacion retourne par le Vicounte,
en quel cas nous entendoms qe si nulle protestacion
fust illoeqes fait qe ele ne le freit pas icy; et pur
ceo qe cest un brief de Dreit, et ele est en Court,
et ne voet pas counter vers nous, nous demandoms
jugement.—*WILBY.* Vous parletz en tourment de
vostre protestacion, qar cest brief qest retourne nest
pas un brief de Dreit *quod plenum rectum teneatis*
secundum consuetudinem manerii, mes est un brief de
Dreit patent, quel brief demura touz jours od le
pleintif; par quei saunz cel brief nous ne poms

¹ According to the record issue was joined upon the replication (as at p. 559, note 3), and the *Venire* was awarded. There were afterwards several adjournments, but nothing further appears on the roll.

There follows on the roll another *Cui in vita*, brought by the same demandant against Laurence de Northfolk, of Coventry, and Celota his wife, in respect of a mill in

Coventry. The pleadings are, *mutatis mutandis*, the same. The case ends with the award of the *Venire*.

² From H., and I.

³ I., qe il.

⁴ I., le plee, instead of la parole.

⁵ The words between brackets are omitted from I.

⁶ I., sa.

No. 81.

A.D. 1346. the tenant to answer.—Therefore WILLOUGHBY asked the plaintiff where that writ was. And because the plaintiff had it not ready in Court, and the tenant prayed his deliverance, judgment was given that the tenant should leave the Court without day, and not that the plaintiff and her pledges should be in mercy, because no pledges to the King's officer were found, nor to prosecute the cause in the King's Court.

Cosinage. (31.) § A writ of Cosinage was brought, and the demandant¹ made the resort from one A.,¹ because he died without heir of his body, to the demandant himself by mesne degrees.¹—*Gaynesford*. We tell you that we are the son of this same A.,¹ and are in possession of the land as his heir, and we demand judgment whether you can maintain this writ against us.—*Derworthy*. You ought not to be admitted to say that you are son and heir of A.; for we say that you

¹ For the names, see p. 563, notes 1 and 2.

No. 31.

mettre le tenant a respondre.—Par quei il demanda A.D. 1346.
del pleintif ou cel brief fut. Et pur ceo qe le
pleintif nel avoit prest en Court, et le tenant pria
sa deliveraunce, fust agarde qe le tenant alast a
Dieu saunz jour, et ne mye qe luy et ses plegges
furent en la mercy, pur ceo qe nuls plegges furent
trovez a ministre le Roi, ne a poursuivre en sa
Court, &c.

(31.)¹ § Un brief de Cosinage fut porte, et fist le Cosinage.
resort dun A., pur ceo qil murust saunz heir de
son corps, a lui par degrees menes.²—*Gayn.* Nous
dioms qe nous sumes le fitz_mesme celi A. et einz
sumes en la terre come son heir, et demandoms
jugement si cest brief vers moy poetz meyntener.³
—*Der.* A dire qe vous estes fitz et heir A. ne
devetz avenir; qar nous dioms qe vous nasquites

¹ From H., and I., but corrected by the record, *Placita de Banco Trin.*, 20 Edw. III., R^o 100, d. It there appears that the action was brought by John Joulyn, of Bodmin, against John Bounteth, in respect of one messuage and a third part of two acres of land in Trewane (Cornwall), and against Richard de Sancta Electa, chaplain, in respect of one messuage and a moiety of one acre of land in Trevenian, "de quibus Ricardus Bounteth consanguineus prædicti Johannis Joulyn, cujus heres ipse est, fuit seisis in dominico suo ut de feodo, die quo obiit."

² The count was, according to the record, "quod prædictus Ricardus consanguineus, &c., fuit seisitus, . . . et de ipso Ricardo, consanguineo, &c., quia obiit sine herede de se, descendit feodum, &c., cuidam Johanni ut fratri et heredi, &c. Et de ipso Johanne descendit

"feodum, &c., cuidam Ricardo ut filio et heredi, &c., et de ipso Ricardo descendit feodum, &c., isti Johanni Joulyn qui nunc petit ut filio et heredi, &c."

³ John Bounteth's plea was, according to the record, "quo ad tenementa versus eum petita dicit quod prædictus Johannes Joulyn nihil juris clamare potest in eisdem tenementis, quia dicit quod, cum idem Johannes per breve et narrationem suam supponit prædictum Ricardum Bounteth de cujus seisis, &c., obiisse sine herede de se, et sic faciendo descensum ei ut heredi, &c., dicit quod ipse est filius ipsius Ricardi Bounteth et heres, et tanquam heres, &c., modo seisitus est de tenementis prædictis, &c. Et hoc paratus est verificare, &c., unde petit judicium si idem Johannes Joulyn actionem inde habere debeat, &c."

No. 32.

A.D. 1346. were born before wedlock, and we demand judgment whether as heir, &c. — *Gaynesford*. Sir, you see plainly that he does not deny that we are the son of A., and he cannot make us a stranger to A. without pleading, with regard to the right, that we are a bastard, and so making us a stranger to the blood of every one; therefore the law does not put us to answer to that which he has said. — *WILLOUGHBY*. Then you refuse the averment which he tenders you, that is to say, that you were born before wedlock; and that issue affects the right just as much as if he had alleged bastardy in you; therefore will you abide judgment thereon? — *Gaynesford*. Yes, and so may God help me, Sir, at all the peril which there may be, since he does not deny that we are the son of A., and we are in tenancy, in which case this cannot be a plea, without alleging that we are fully a bastard; therefore we demand judgment whether, &c. — *WILLOUGHBY*. Let the plea be entered; and we will consider the judgment.

Protec-
tion.

(32.) § One who had been outlawed on a writ of Account obtained his charter of pardon, and sued a *Scire facias* to warn the plaintiff, and the plaintiff appeared. And they were at issue between them as to whether the defendant had been the plaintiff's receiver or not. And at *Nisi prius* in the country the person who sued the *Scire facias* made default, and the Justices did not take the inquest. But now, in the Bench, they recorded the default. And now a Protection was produced for the person who sued the *Scire facias*.—

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avant les esposailles, et demandoms jugement si A.D. 1346.
come heir, &c.¹—*Gayn.* Sire, vous veietz bien il ne
dedit pas qe nous ne sumes son fitz, et de luy ne
nous poet il estraunger saunz pleder en le dreit qe
nous sumes bastard, et issi nous estraunger de
chesquny sang; par quei a ceo qil ad dit la leye
ne nous mette pas a respondre.—*WILBY.* Donques
refusez vous laverement qil vous tende, saver, qe
vous nasquites avant les esposailles; et cel issue est
auxi avant en le dreit come sil ust allegge en vous
bastardie; par quei voletz la demurer?—*Gayn.* Oil,
si Dieu moy eide, Sire, a peril qe appent, puis qil
ne dedit pas qe ne sumes soun fitz, et nous sumes
en tenance, en quel cas ceo ne poet estre ple,
saunz allegger qe nous sumes pleinement bastard;
par quei nous demandoms jugement si, &c.—*WILBY.*
Soit le ple entre; et nous aviseroms del jugement.²

(32.)³ § Celuy qe fut utlage en brief Dacompte
avoit sa chartre, et suist un garnissement vers le
pleintif, qe vient. Et entre eux furent a issue sil
fust son resceivour ou nent. Et al *Nisi prius* en
pays celuy qe suist le garnissement fist default, et
les Justices ne pristrent pas lenqueste. Mes ore en
Baunk recorderent la default. Et ore une proteccion
fut mys avant pur celuy qe suist le garnissement.—

Protec-
cion.
[Fitz.,
Protec-
cion, 84.]

¹ The replication was, according to the record, "quod prædictus Johannes Bounteth ut filius et heres prædicti Ricardi consanguinei. &c., ipsum ab actione sua prædicta excludere non debet in hac parte, quia dicit quod idem Johannes nullius heres esse potest quia natus fuit ante sponsalia. Et hoc paratus est verificare, unde petit iudicium, &c."

² According to the record there was a rejoinder by John Bounteth,

"quod ipse est filius prædicti Ricardi Bounteth, per medium cujus, &c., et natus infra sponsalia, &c."

Issue was joined upon this, the *venire* was awarded, and there was a subsequent adjournment.

The other tenant, Richard de Sancta Electa, prayed and had view of the tenements demanded against him. Nothing further is shown, beyond an adjournment.

³ From H., and I., until otherwise stated.

No. 32.

A.D. 1346. *Grene*. Sir, Protection does not lie, because, when he sued the *Scire facias* upon his charter of pardon, he became in a manner plaintiff, and therefore Protection does not lie. And, moreover, since he has commenced this suit, and afterwards does not prosecute it, the first outlawry remains in its force, because he [is an outlaw] and his charter of pardon loses its force, and therefore Protection for one who is thus out of the law is not allowable.—HILLARY. If he had made default on the first day of the garnishment, it would be right that the first outlawry should remain in its force, because he had a day in Court then by the *Scire facias*; but, when on this day, when the *Scire facias* is returned, you came and made your declaration against him on your original writ of Account, and thereupon he was at issue with you, then he had a day on your original writ of Account, and not on the *Scire facias*; and, since he is now a party to you on your original writ of Account, the Protection is allowable for him.—And the parol was put without day, &c.

Account. § A man brought a writ of Account against another, and the defendant was outlawed by process, and afterwards purchased his charter of pardon, and had a *Scire facias* to warn the plaintiff. Thereupon the plaintiff appeared and counted that the defendant had been his receiver of his moneys, and the other said that he had never been the plaintiff's receiver.—And a *Nisi prius* was granted before SIR RICHARD DE KELLESHULLE.—And on the day given the defendant was called and did not appear. Therefore KELLESHULLE recorded the default, and would not take the inquest, but on the day which they had in the Bench he recorded the default which the defendant made in the country.—*Grene*. The charter of pardon was granted to him upon condition that

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Grene. Sire, la proteccion ne gist pas, qar, quant il A.D. 1346. suist la garnissement hors de sa chartre, il est en manere actour, par quei proteccion ne gist pas. Et auxi, quant il ad comence cele sute, et puis ne le pursust, la primere utlagerie demoert en sa force, pur ceo qil et sa chartre perde sa force, et par tant proteccion pur celuy qest issi hors de la lei nest pas allowable.—*HILL.* Sil ust fait default al primer jour del garnissement il serreit resoun qe la primere utlagerie demureit en sa force, pur ceo qil ad jour en Court¹ adonques par le garnissement; mes, quant a cel jour del garnissement retourne vous venistes et feistes vostre demoustraunce vers² luy sur vostre original Dacompte, et sur ceo fust il a issue od vous, adonques avoit il jour sur vostre original Dacompte³ et ne mye sur le garnissement; et, puis qil est a ore⁴ partie a vous sur vostre original Dacompte, la proteccion pur luy est allowable.—Et la parole fust mys saunz jour, &c.

§ Un⁵ homme porta un brief Dacompte vers un Accompte. autre, et le defendant fuit utlage par procees, et puis purchacea chartre de pardoun, et avoit *Scire facias* de garnir le pleintif, ou le pleintif vint, et counta⁶ qil fuit soun resceyvour de ses deners, et lautre dit qil ne fuit unqes soun resceyvour.—Et *Nisi prius* fuit grante devant SIRE RICHARD DE KELL.—Et al jour le defendant fuit demande, et ne vint pas. Par quei KELL. recorda la defaute, et ne voleit mie prendre lenqueste, mes al jour qils avoint en Baunk il recorda la defaute qe le defendant fit en pays.—*Grene.* La chartre luy fuit graunte sur condicion qil

¹ The words en Court are omitted from H.

² I., devers.

³ Dacompte is omitted from I.

⁴ I., ceo.

⁵ This report of the case is from L., and C.

⁶ L., dit.

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A.D. 1346. he should answer to the party, and upon that a *Scire facias* was granted at his suit, and upon that writ we have pleaded, and he made default at *Nisi prius*, and so he is non-suited in his own suit, and so the charter has lost its force, and we pray, for the King, a *Capias utlagatum*.—HILLARY. KELLESHULLE ought to have taken the inquest on his default, for the whole plea was on the original writ of Account, and so, when he made default, KELLESHULLE ought to have taken the inquest.—And one came and produced a Protection for the defendant.—And *Grene* said that it should not be allowed, because this plea is only by the *Scire facias*, on which this plea is held, and now, since he is non-suited on this writ, there is no other course but to award the *Capias* against him, for the first outlawry stands in its force, because the charter of pardon has lost its force through his non-suit, since the charter was granted to him upon condition "*ita quod respondeat parti*," and that he has not performed, so that the outlawry stands in its force, and the charter cannot be allowed for him.—HILLARY. The jury is now put in respite, so that he is still a party to you, and so we must allow the Protection. And it seems to me that KELLESHULLE ought to have taken the inquest in the country, and then everything would have been saved; but now we must put the jury in respite for want of jurors, and so the defendant is a party in Court, and therefore we will allow the Protection.—And HILLARY put the parol without day.—Observe and *Quere*.

Dower. (33.) § A writ of Dower was brought against John Darcy, the son, and Elizabeth his wife.—*Seton*. We say that this same person on whose endowment you demand was our father, whose heir we are, and we entered after his death, as heir, and we have always been and still are ready to render dower to

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respondist a la partie, et sur ceo *Scire facias* fuit A.D. 1346. grante a sa suite, et sur cel brief nous avoms plede, et il fist defaute al *Nisi prius*, issint est il nounsuy en sa suite demene, issint ad la chartre¹ perdu sa force, et prioms *Capias* pur le Roi *ad capiendum utlagatum*.—HILL. Il duist aver pris lenqueste par sa defaute, qar tut le plee fuit sur loriginal, issint, quant il fist defaute, il duist aver pris lenqueste.—Et un vint et mist avant proteccion pur le defendant.—Et *Grenc* dit qil ne serreit mie allowe, qar ceste plee nest forge par le *Scire facias*, sur quel ceste plee est tenu, et ore, quant il est nounsuy en ceo brief, il ad nulle autre mes agarder *Capias* devers luy, qar la primere utlagerie estet en sa force, qar la chartre ad perdu sa force par sa nounsuite, pur ceo qe la chartre luy fuit graunte sur condicion *ita quod respondeat parti*, et ceo nad il pas fait, issint qe lutlagerie estet en sa force, et pur luy la chartre ne poet estre allowe.—HILL. La Jure est ore mys en respite qil est unqore partie a vous, issint qil covient qe nous allowoms la Proteccion. Et il moi semble qil² duist aver pris lenqueste en pays, et donques ust este tut sauve; mes ore il covient qe pur defaute des jurours qe nous mettoms la Jure en respit, issint est il partie en Court, par quei nous voloms allowere la Proteccion.—Et mist la parole sanz jour.—*Vide et quere*.

(33.)³ § Dowere porte vers Johan Darcy, le fitz, et Dowere. Elizabeth sa femme. — *Setone*. Nous dioms qe mesme celui de qi dowement vous demandez fust nostre pere, qi heir nous sumes, et entrames apres sa mort, come heir, et touz jours avoms este prest et unqore sumes de la rendre dowere aytiels

¹ C., le *Capias*, instead of la chartre.

² L., ail.

³ From H., and I., until otherwise stated.

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A.D. 1346. her on condition that she will render to us certain charters (and *Seton* stated in particular what they were) and transcripts of certain fines, which were by the same ancestor, before his death, placed in a bag sealed with his seal, and which, after his death, came into the demandant's keeping.—*Moubray*. See here the sealed bag containing the muniments of which he has spoken, and we pray our dower.—And the tenant received the bag.—Therefore judgment was given that the demandant should recover her dower; but because the tenants came on the first day, and were ready to render dower, &c., the amercement was pardoned.

Dower. § Note that on a writ of Dower the tenant said that the woman, who was demandant, detained from him certain charters which touched his inheritance, and which came into her keeping after the death of his father, and that he had always been ready to render dower to her, and still was, on condition that she would give up his charters to him.—And the woman had the charters all ready in Court, and gave up the charters to him, and he received them.—And judgment was given that the woman should recover her dower against the tenant, but, as to the amercement, because he had come on the first day, and had rendered dower, and had always been ready as above, and so there was no default in him, it was pardoned.—And observe that neither party was amerced, &c.

Trespass. (34.) § A writ of Trespass was brought in respect of corn cut and carried off.—*Seton*. We say that on the same day with regard to which he has counted the land was the freehold of one J., and we came to assist him and cut the corn; judgment whether the plaintiff can assign any tort in our person.—*Thorpe*. You see plainly how he has

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qele nous vodra rendre certeyns chartres, et les noma A.D. 1346. queux ils furent, et transescriptes de certains fines, qe furent par mesme launcestre, avant soun moriaunt, enseales dun bagge souz son seal, et apres sa mort deviendrent en la garde le demandant. — *Moubray*. Veetz cy la bagge enseale od les munementz dount il ad parle, et prioms nostre dowere.—Et le tenant le resceust.—Par quei agarde fust qele recoverast soun dowere; mes, pur ceo qe les tenantz vindrent al primer jour, et furent prest de rendre dowere, &c., lamerquement fust perdone.

§ *Nota*¹ qen un brief de Dowere le tenant dist qe ^{Dowere.} la femme luy detient certainz chartres qe toucherent soun heritage, queux devyndreint en sa garde apres la mort soun pere, et tut temps avoit este prest de luy rendre dowere, issint qele luy voleit rendre ses chartres, et unqore est.—Et la femme avoit les chartres tut prest la, et luy rendi les chartres, et il les resceut.—Et agarde fuit qe la femme recoverast soun dowere vers le tenant, mes, quant al amercie-ment, pur ceo qil est venu al primer jour, et ad rendu dowere, et tut temps ad este prest *ut supra*, issint nulle defect en luy, &c.—*Et vide* qe ne lun ne lautre fuit amercie, &c.

(34.)² § Brief de Trespas fust porte de bleds sciez ^{Trespas.} et emportez.—*Setone*. Nous dioms qe a mesme le jour qil ad counte ceo fust le franc tenement un J., et en eide de luy nous venimes et les sciames; jugement sil poet en nostre persone tort assigner.—*Thorpe*. Vous veietz bien coment il ad justifie

¹ This report of the case is from | From H., and I.
L., and C.

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A.D. 1346. justified his act in right of another person, who is not a party to the plea, to do which does not lie in his mouth; for on this matter he ought to have pleaded Not Guilty, and then if the matter had been so found, it would have availed him; but since he has himself justified it, we demand judgment, and pray our damages.—*Seton*. If you had named J. we could have justified it well enough, and the non-naming of him is your fault, which ought not to turn to our damage.—And in the end *Thorpe* said that the defendant cut the corn as the plaintiff had made plaint; ready, &c.—And the other side said the contrary.

Trespass. (35.) § Roger Hillary brought a writ of Trespass against John de Leghe, and Hawise his wife, and several others, in respect of his corn cut, and his grass mown, and alleged that they carried the grass off when it became hay.—*Richemunde*. They have counted that the trespass was committed on such a day, and that the same trespass was continued until a fortnight afterwards, whereas a trespass committed on one day cannot be the same as that which is committed on another day, and therefore the same trespass could not be continued; judgment.—THE COURT. Answer over, for the count is good enough.—*Richemunde*. We say, as to the cutting of the corn, that this same Hawise, while she was sole, leased a third part of so much land, which she held in dower,

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son fait en autri droit, qe nest pas partie al plee, A.D. 1346. quel ne gist pas en sa bouche a faire; qar sur ceste matere il dust aver plede de rienz coupable, et la matere trove lui ust value; mes puis qil had mesme justifie, nous demandoms jugement, et prioms noz damages.—*Setone*. Si vous ussetz nome J., nous lussoms justifie assetz bien, et le nent nomer de luy cest vostre defaute, qe ne deit pas tourner a nous en damage.—Et a dreyn *Thorpe* dit qil scia les bledz come il fust pleint; prest, &c.—*Et alii e contra*.

(35.)¹ § Roger Hillary porta brief de Trespas ^{Trespas.} vers Johan Ley, et Hawise sa femme, et plusours ^{[Fitz.,} autres, de ses bleds sciez, et sa herbe fauche, et ^{Barre,} quant ceo fust fein lenporterent.²—*Richem*. Ils ount counte qe tiel jour le trespas se fist, et qe mesme le³ trespas fust continue tanqe une quinzeine apres, ou trespas fait a un jour ne poet estre mesme [qest fait a autre jour, et par taunt mesme]⁴ le trespas ne pust estre continue; jugement.—*CURIA*. Dites outre, qar le counte est assetz bon.—*Richem*. Nous dioms qe, quant al scier des bleds, mesme ceste Hawyse, tanqe ele fust soule, lessa la terce partie de taunt de terre, quele ele tient en dowere,

¹ From H., and I., but corrected by the record, *Placita de Banco*, Trin.. 20 Edw. III., R^o 150, d. It there appears that the action was brought by Roger Hillary, knight, against John de Leghe and Hawise his wife, and eight others.

² The declaration was, according to the record, "quod prædicti Johannes et alii, die Lunæ proximo post festum Sancti Petri ad Vincula anno regni domini Regis nunc decimo nono, vi et armi . . . blada ipsius Rogeri, videlicet, frumentum

"hordeum, avenam, siliginem, fabas, et pisas, apud Claybroke nuper crescentia messuerunt, et herbam suam ibidem tunc crescentem falcaverunt, et fenum inde proveniens et blada prædicta . . . ceperunt et asportaverunt, et transgressionem illam a præfato die Lunæ per quinque septimanas tunc proxime sequentes continuaverunt . . . contra pacem Regis."

³ H., le jour.

⁴ The words between brackets are omitted from I.

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A.D. 1346. of which the land in which he supposes the corn to have been cut is parcel, to one R.¹ until the full age of one E.,¹ son and heir of her husband, yielding ten¹ shillings a year at two stated terms, with a covenant that, if the rent should happen to be in arrear at the two terms and for one fortnight afterwards, it should be lawful for her to enter, and hold the land as she had previously done, and that by deed indented, of which they made *profert*. This R. bequeathed his term to one S.,¹ and they were seised of the rent by the hand of S. This S. granted his estate to Roger, the plaintiff. And we say that the rent was in arrear for a fortnight after the two terms, and therefore we entered in accordance with the covenant, and cut the corn, as it was quite lawful for us to do. This E. is still under age, and we demand judgment whether in respect of that cutting you can attach tort in our person. And, as to the mowing of your grass and carrying away the hay, Not Guilty, and so also in respect of coming with force and arms.—*Greene*. You

¹ As to the names and the rent, *see* p. 575, note 1.

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de quei la terre en quele il suppose les bleds estre A.D. 1346.
 sciez en est parcele, a un R. tanqe al age dun E.,
 fitz et heir son baron, rendaut x.s. par an a ij.
 termes, et sil avenesist qe la rent fust arere a les
 ij. termes et une xv^{me} apres qe lirreit a luy dentrer,
 et le tener come avant ele fist, et ceo par fait
 endente, quel ils mistrent avant; le quel R. devisa
 son terme a un S., et eux seisiz de la rente par
 la meyn S. le quel S. granta son estat a Roger
 pleintif. Et dioms qe pur une xv^{me} apres les ij.
 termes la rente fust arere, par quei solonc le
 covenant nous entrames, et les sciames, come bien
 nous lust; le quel E. est unqore deinz age, et
 demandoms jugement si de cel scier poetz tort en
 nostre persone attacher. Et, quant al faucher de
 vostre herbe et fein enporter, de rien coupable, et
 auxi al venir a force et armes.¹—*Grene.* Vous veietz

¹ According to the record all the
 defendants pleaded Not Guilty,
 "quo ad venire vi et armis, et fal-
 cationem et asportationem feni-
 "inde provenientis," and issue was
 joined upon that plea.

"Et Johannes et Hawisia, quo
 "ad messionem et asportationem
 "bladi, &c., dicunt quod ipsa
 "Hawisia, dum sola fuit, per
 "nomen dominæ Hawisiæ quæ fuit
 "uxor Willelmi de la Plaunche,
 "per quandam indenturam inter
 "ipsam Hawisiam et quendam
 "Willelmum Danet factam, . . .
 "concessit et dimisit ipsi Willelmo
 "totam dotem suam sibi contin-
 "gentem de situ manerii de Clay-
 "broke et terrarum dominicarum
 "quas dictus Willelmus colere
 "solebat in manerio de Claybroke,
 "una cum pratis, pascuis, et pas-
 "turis, aquis, et omnibus aliis pro-
 "prie dictæ tertie parti spectan-
 "tibus, habenda et tenenda prædicto

"Willelmo Danet et assignatis suis
 "usque ad legitimam ætatem
 "Willelmi filii et heredis prædicti
 "domini Willelmi de la Plaunche,
 "vel alteriuscujuscunque heredum,
 "si dictus Willelmus filius domini
 "Willelmi infra ætatem obierit,
 "Reddendo inde annuatim dictæ
 "dominæ Hawisiæ sexaginta
 "solidos argenti ad Festa Annun-
 "ciationis beatæ Mariæ, Nativitatis
 "Sancti Johannis Baptistæ, Sancti
 "Michaelis, et Sancti Thomæ
 "Apostoli, æquis portionibus, pro
 "omnibus servitiis, exactionibus,
 "et demandis. Et, si dictum red-
 "ditum sexaginta solidorum ad
 "aliquem terminum, in parte vel
 "in toto, a retro fore contigerit,
 "bene liceret dictæ dominæ
 "Hawisiæ in tota dicta tertia
 "parte, cum pertinentiis, dis-
 "tringere, et districtiones retinere
 "quousque de prædicto redditu,
 "simul cum arreragiis, plenarie

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A.D. 1346. see plainly how she claims dower in this tenancy, and she has not said how it came to her—whether by recovery or by assignment—and she has also not said that she was seised before the lease, but the contrary will rather be supposed by the words of the deed; for the deed purports that she leased to him a third part of the demesne lands which were her husband's, to which she is entitled as her dower, and that the person to whom she leased had been wont to till the demesnes; and by the statement that she is entitled to it as dower it is supposed that she had not had it assigned to her, and therefore the assignment had at that time been delayed, and we demand judgment.—

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bien coment ele clayme dower en cele tenance, et ele nad pas dit coment il ayent, ou par recoverir ou par assignement, ne auxi ele nad pas dit qele fut seisi avant la lees, mes le contraire plutoust serra suppose par la parole de fait; qar le fait voet qele luy lessa la terce partie des demenes terres qe furent a son baroun qe a luy affiert come son dower qe les demenes terres celuy a qi ele lessa soleit coiller; et -par ceo qest parle qe affiert a luy est suppose qele nel avoit a luy assigne, et adonques par taunt respite, et demandoms jugement.—

" fuerit satisfactum, vel quod bene
" liceret prædictæ dominæ Hawisiæ
" ad libitum suum in omnibus
" terris et tenementis suis prædictis,
" cum pertinentiis, ingredi et
" retinere, non obstante aliqua
" calumnia prædicti Willelmi, si
" contingeret prædictum redditum
" per unam quindenam post
" terminos prænotatos a retro
" existere, de quibus quidem tene-
" mentis prædictus Willelmus
" Danet seisisus fuit, et ipsa
" similiter Hawisia fuit seisisa de
" prædicto redditu per manus ejus-
" dem Willelmi. Qui quidem Willel-
" mus Danet statum suum quem
" habuit in eisdem tenementis
" legavit cuidam Thomæ Danet
" fratri suo in testamento suo. Et
" idem Thomas seisisus fuit de
" eisdem tenementis, et redditum
" prædictum ipsi Hawisiæ soluit,
" et postmodum statum suum inde
" dimisit præfato Rogero Hillary,
" qui quidem Willelmus filius
" Willelmi adhuc est infra ætatem.
" Et quia prædictus redditus eidem
" Hawisiæ inde debitus de quatuor
" terminis proximis ante diem
" prædictum, videlicet, de terminis
" Sancti Michaelis et Sancti
" Thomæ Apostoli anno regni

" domini Regis nunc Angliæ decimo
" octavo, et de terminis Annuncia-
" tionis beatæ Mariæ, et Nativitatis
" Sancti Johannis Baptistæ, tunc
" proxime sequentibus, et per quin-
" denam post dictam Festum
" Nativitatis Sancti Johannis, a
" retro fuerunt, ipse Johannes
" de Leghe, nunc vir prædictæ
" Hawisiæ, et ipsa Hawisia, virtute
" indenturæ prædictæ, intraverunt
" in tenementis illis. Et petunt
" judicium si prædictus Rogerus
" Hillary de bladis crescentibus
" super terram prædictam tempore
" ingressus sui, per formam inden-
" turæ prædictæ, ratione prædicti
" redditus non soluti, &c., aliquam
" injuriam in personis ipsorum
" Johannis de Leghe et Hawisiæ
" assignare possit, &c. Et pro-
" ferunt hic dictam indenturam
" quæ prædictam concessionem
" præfato Willelmo Danet factam
" testatur."

The other defendants pleaded,
" quod ipsi venerunt ut servientes
" ipsorum Johannis et Hawisiæ,
" absque hoc quod ipsi aliquod
" fecerunt contra pacem, sicut præ-
" dictus Rogerus Hillary superius
" supponit," and issue was joined
on their plea.

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A.D. 1346. *Richemunde*. We have said that we leased to one whose estate you have by an indenture (of which we have made *profert*) on conditions for entry, and we tell you that he was seised through the lease, and you do not deny that the conditions were broken, and that we entered; judgment.—WILLOUGHBY. You could never lease nor could he be seised through your lease unless you were previously seised; therefore we understand by the manner of your answer that you were seised and did lease. Therefore, *Grene*, answer over what you will.—*Grene*. Then, Sir, we tell you that your husband held the same land by knight service of one William la Zouche, which William seized the wardship after his death, and continued that estate in the whole of the wardship until he leased the wardship to this same R.,¹ to whom you have supposed the lease to have been made by you, *absque hoc* that he assigned to you a third part in dower, or that a third part was ever, in his time, severed from the two other parts. And we tell you that R. continued that estate in the wardship after the lease, until he bequeathed as above; and so we say that the deed of which you make use cannot be a deed which can be supposed to pass possession, because you had nothing, but was made during his seisin, which deed so made during seisin cannot give you a title to enter by any condition therein expressed. And therefore, inasmuch as you have confessed the cutting of our corn for a cause which does not make it congeable, we demand judgment, and pray our damages.—*Richemunde*. We do not admit the

¹ For the name, see p. 579, note 2.

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Richem. Nous avoms dit qe nous lessames a un A.D. 1346. qi estat vous avetz par une endenture, quele nous avoms mys avant, sur condicions dentrer, et vous dioms qil fust seisi par le lees, et vous ne dedites pas les condicions estre enfreintz, et qe nous entrames ; jugement. — *WILBY.* Vous ne poietz jammes lesser et il estre seisi par vostre lees si vous ne fussetz seisi avant ; par quei nous entendoms par la manere de vostre respons¹ qe vous fuistes seisi et lessastes. Par quei, *Grene*, dites outre qe vous voiletz. — *Grene.* Sire, donques vous dioms qe vostre baron tint mesme la terre en chivalrie dun William la Zouche, le quel William seisist la garde apres sa mort, et cel estat en tute la garde continua tanqil lessa la garde a mesme celi R. a qi vous avetz suppose le lees par vous estre fait, saunz ceo qil vous assigna la terce partie en dower, ou unqes en son temps la terce partie severe des ij. parties. Et vous dioms qe R. cel estat continua en la garde apres le lees tanqil devisa *ut supra* ; et issi vous dioms qe le fait qe vous usez ne poet estre fait quel possesioun dust passer, pur ceo qe vous navietz rienz, mes fust fait en seisine, quel fait issi fait en seisine ne poet doner a vous title dentre par nulle condicion leinz mote. Et par taunt, de ceo qe vous avetz conu le scier de noz bledz pur cause nent coungeable, nous demandoms jugement, et prioms noz damages.²—*Richem.* Nous ne

¹ The words de vostre respons : " de la Plaunche obiit seisitus de
are omitted from I. " eodem manerio, per quod præ-

² The replication was. according to the record, " quod quidem " dictus Willelmus la Zouche
" Willelmus de la Plaunche fuit " intravit in eodem manerio, et
" seisitus de integro prædicti " illud tenuit nomine custodiæ,
" manerii, et manerium illud tenuit " ratione minoris ætatis Willelmi
" de Willelmo la Zouche de " filii et heredis ejusdem Willelmi
" Haryngworthe per servitium : " idem manerium dimisit præfato
" militare, qui quidem Willelmus " Willelmo Danet tenendum usque

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A.D. 1346. continuance of the wardship in the person of William or of R., but since your plea is taken with the intendment that we had nothing before the lease, we tell you, as to that, that we were seised and did lease, and that R. was seised through our lease; ready, &c. — *Grene*. You shall not be admitted to that, for yesterday we pleaded so as to compel you to say that you were seised before the lease, and you would not do that in any manner, but said expressly that you would not say so, and of that we take your records to witness; therefore you shall not be admitted to aver it now. — *WILLOUGHBY*. Deliver yourself; for in this case in which she says that she leased it is included that she was previously seised, because otherwise she could not lease; therefore that which he now says is in pursuance of his first plea. — *Grene*. Then, Sir, we pray that, since she has claimed to hold this land in dower, and she has confessed that the husband's heir is still under age, in which case she could not be tenant in dower without assignment or recovery, she do therefore state precisely how she was endowed. — *Richemunde*. You have said, in your replication, that the guardians continued their estate, *absque hoc* that we had anything in dower, and we will aver the contrary of that, and therefore, as to compelling us now to show how we were endowed, we do not understand that the law compels us to say anything for that purpose; and,

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conissons pas la continuaunce de la garde en A.D. 1346. la persone William ne R., mes, puis qe vostre plee est pris de tiel entente qe nous navioms rienz avant le lees, a ceo vous dioms qe nous fumes seisi et lessames, et R. seisi par nostre lees; prest, &c.—*Grene*. A ceo navendrez vous pas, qar hier nous pledames de vous aver chace daver dit qe vous fustes seisi avant le lees, et ceo ne vodrietz vous faire en nulle manere, mes deistes expressement qe vous nel vodrietz dire, et de ceo pernomz voz recordes; par quei del averer a ore ne serretz resceu.—*WILBY*. Delivrez vous; qar en ceo cas qe ele dit qe ele lessa est compris qe ele fust seisi avant, qar autrement ele ne poait lesser; par quei son dit a ore est pursuaunt de son primere plee.—*Grene*. Donques, Sire, prioms qe puis qe ele ad clame a tenir cele terre en dowere, et ele ad conu qe leir¹ le baron est unqore deinz age, en quel cas ele ne poait estre tenant en dowere saunz assignement ou recoverir, par quei nous prioms qe ele mette en certain coment ele fust dowe.—*Richem*. Vous avetz dit, en vostre replicacion, qe les gardeins continuerent lour estat, saunz ceo qe nous navioms rienz en dowere, et le contraire de cele nous voloms averer, par quei de nous chacer a ore a moustrer coment nous fumes dowe nentendoms pas qe a ceo faire la lei nous chace a dire; et, de

“ad legitimam statem prædicti
 “heredis, qui de integro manerii
 “prædicti seisitus fuit, virtute
 “dimissionis prædictæ, quousque
 “statum suum quem habuit in
 “eodem manerio legavit cuidam
 “Thomæ fratri ejusdem Willelmi
 “Danet, virtute cujus legati idem
 “Thomas fuit inde seisitus post
 “mortem prædicti Willelmi Danet
 “quousque idem Thomas eundem
 “statum suum de manerio illo

“dimisit ipsi Rogero Hillary,
 “absque hoc quod prædicta Hawisia
 “seisita fuit de prædicta tertia
 “parte prædictæ terræ in qua præ-
 “dicta transgressio facta fuit
 “nomine dotis separata de præ-
 “dictis duabus partibus ante diem
 “confectionis scripti prædicti. Et
 “hoc paratus est verificare, unde
 “petit judicium, &c.”

¹ I., le heir.

No. 36.

A.D. 1346. since you will not accept that averment, we demand judgment, &c.—*Grene*. Then we tell you that the guardians continued their estate in the wardship until R. bequeathed as above, *absque hoc* that you were seised of the third part in dower, by assignment from anyone, severed or divided from the other two parts, before the date contained in the deed; ready, &c.—*Richemunde*. And we will aver that we were seised of it in dower before the date of the deed, and leased it to R., and that R. was seised through our lease, &c. And his statement that the land in respect of which the dispute is was never severed from the other two parts is only a matter of evidence, and we pray that it be not entered on the roll as part of his plea.—*SHARSHULLE*. If a woman be dowable of particular land, and I assign to her a third part of it, without defining which third it shall be in particular, she cannot enter on any particular part; but if I assign to her a certain part, that is dower, and is severed from the other two parts, but the other is not; therefore, since this is a matter which declares his issue, there is no damage even though it be entered.—And in the end the issue was entered in that manner.

Right. (36.) § A writ of Right patent was brought in a Court Baron, and removed by Tolt into the County Court, and by *Pone* out of the County Court into the Bench. And now the Sheriff had returned the writ of Right, and the *Pone* also, but not the Tolt.

No. 36.

puis qe vous ne voletz resceivre cel averement, A.D. 1346. nous demandoms jugement, &c.—*Grene*. Donques vous dioms nous qe les gardeins continuerent lour estat de la garde tange R. devisa *ut supra*, saunz ceo qe vous fustes seisi de cele en dowere dasquny assignement severe ou devise de les ij. parties avant la date compris deinz le fait; prest, &c.—*Richem*. Et nous voloms averer qe nous fumes seisis en dowere de cele avant la date del fait, et lessames a R., et R. seisi par nostre lees, &c. Et ceo qe il parle qe ceo de qi le debat est ne fust unqes severe de les ij. parties ceo nest qe¹ evidence, et prioms qe ceo ne soit entre en roulle come parcele de son plee.—*SCHARS*. Si une femme soit dowable dune terre, et jeo lassigne la terce partie saunz determiner quele ceo serra en certain, ele ne poait entrer en nulle certaine parcele; mes, si jeo lassigne certaine parcele, cele est dowere, et severe de les ij. parties, et lautre nient; par quei puis qe cest une matere qe desclare son issue il nest pas damage mes qil soit entre.—Et a dreyn lissue par la manere fust entre.²

(36.)³ § Brief de Droit patent fust porte en Droit. Court de Baroun, et remue par Tolte en counte, et par le *Pone* hors de counte en Baunk. Et ore le Vicounte avoit retourne le brief de Droit, et auxi le *Pone*, mes nent le Tolte. Par quei *Grene*,

¹ I., pas.

² According to the record the rejoinder, upon which issue was joined, was, "quod præfata
" Hawisia seisisa fuit de prædicta
" tertia parte terre prædictæ
" nomine dotis in qua terra præ-
" dictus Rogerus Hillary supponit
" transgressionem illam fieri, et
" eandem terram per scriptum
" suum prædictum concessit præ-

" fato Willelmo Danet, virtute
" cujus concessionis idem Willel-
" mus fuit inde seisisus per trans-
" mutationem possessionis inde
" de seisisina prædictæ Hawisæ in
" personam prædicti Willelmi
" factam virtute scripti prædicti."

The award of the *Venire* follows, but nothing further appears on the roll.

³ From H., and I.

No. 37.

A.D. 1346. Therefore *Grene*, after the demandant had counted against him, denied the words, and said that he did not understand that the Court had warrant to put him to answer, because this original was, at the commencement, sued in a Court Baron, and returned out of the County Court into this Court of Common Pleas, and you are not apprised how it came into the County Court, because, if it had come into the County Court by Tolt, the Sheriff ought to have returned the names of the four knights who had to make the Tolt; and, inasmuch as nothing is returned to you as to how it came out of the Lord's Court, it has come into this Court without warrant.—WILLOUGHBY. What you say is wrong; the Tolt would not be made by four knights, but by the Sheriff himself; and though he has not returned the Tolt, there is no necessity that he should do so, for the record is before us, and that by warrant which came to the Sheriff to return it into this Court; therefore we have nothing to do with anything earlier than this warrant, for the removal which went to the Sheriff; therefore answer.—*Grene* defended, and went out to imparl.

Dower. (37.) § A writ of Dower was brought against William Lavenham and Maud his wife. The husband and his wife said that the wife had nothing, and the husband took the tenancy upon himself, and vouched himself, by another surname, and Maud his wife.—*Skipwith*. You ought not in that manner to be admitted to this voucher, for I say that you and your wife hold jointly, and held jointly on the day on which the writ was purchased; and we tell you that you are the same person; judgment, &c.—*Huse*. That plea is double—one is that we are joint tenants, which falls under the head of fact; another is that we are the same person, which falls under the head of law; and so

No. 37.

apres qe le demandant avoit counte devers luy, A.D. 1346.
 defendi les paroles, et nentendome pas qe la Court
 avoit garrant de luy mettre a respoundre, qar ceste
 original a commencement fust suy en Court de
 Baroun, et retourne hors de counte ceinz, et vous
 nestes pas apris coment il vient en counte, qar si
 ceo ust venu en counte par Tolte, le Vicounte dust
 aver retourne les nouns de iiij. chivalers qe doivent
 faire la Tolte; et de ceo qe rienz vous est
 retourne coment il vient hors de la court le
 seigneur ceo est venuz ceinz saunz garrant.—WILBY.
 Vous dites mal; la Tolte ne serra pas fait par
 iiij. chivalers, mes par le Vicounte mesme; et
 mesqil neit pas retourne la Tolte, il ne covent pas
 qil le fait, qar le recorde est devant nous, et par
 garrant qe vient al Vicounte del ceinz retourner;
 par quei plus haut qe a cele garrant de remuement
 qe sen ala al Vicounte navoms qe faire; par quei
 responez.—Grene defendi, et issit denparler.

(37.)¹ § Brief de Dowere porte vers William Dowere.
 Lavenham et Maude sa femme. Le baron et sa
 femme disoient qe la femme navoit rienz, et le
 baron emprist la tenance, et voucha luy mesme, par
 autre surnoun, et Maude sa femme.—*Skip*. A ceo
 voucher ne devetiz par la manere estre resceu, qar
 jeo dye qe vous et vostre femme tenez et tenistes
 jointement jour de brief purchace; et vous dioms
 qe vous estes mesme la persone; jugement, &c.—
Huse. Ceo plee est double, un de ceo qe nous
 sumes jointenants, quel chiet en fait, un autre de
 ceo qe nous sumes mesme la persone, qe chiet

¹ From H., and I. For a previous writ of Dower against the same parties, which, however, abated, see Y.B., Mich., 19 Edw. III., No. 37 (p. 386).

No. 37.

A.D. 1346. his plea is double, and we pray that he hold to one only.—WILLOUGHBY. He does not now give his counterplea with the intention of compelling you to show cause for your voucher, but to the effect that you do not hold alone since your wife is joint tenant with you, and so the whole is a question of fact.—*Huse*. Then we say that the wife had nothing; ready, &c.—*Skipwith*. Then you do not deny that you are the same person.—WILLOUGHBY. The law does not put him to answer as to that, since you did not rely upon that point in order to oust him from the voucher.—*Skipwith*. Then, Sir, we will imparl.

No. 37.

en ley; et issi son plee double, et prioms qil tiegne A.D. 1346
al un.—WILBY. Il ne donn pas son countreplee
a ore a tiele entente de vous chacer de moustrer
cause de vostre voucher, mes de ceo qe vous ne
tenes¹ pas soul la ou vostre femme est jointenant
od vous, et issi tut en fait.—*Huse*. Donques dioms
nous qe la femme navoit rienz; prest, &c.—*Skip*.
Donques vous ne dedites pas qe vous estes mesme
la persone.—WILBY. A ceo lei ne luy mette pas a
respondre, puis qe vous ne reliastes pas sur cel
point de luy ouster de voucher.—*Skip*. Sire, donques
voloms emparler.

¹ I., vouches.

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ABATEMENT OF WRITS—*cont.*

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ABBOT:

See DEBT; EXECUTION.

ACCOUNT:

A. bound himself by deed to account to B., and B. by a collateral deed granted that if A. executed a statute merchant in B.'s favour for a certain sum, on a particular day, and at a particular place, the first deed should be held as null. In an action of Account brought by B. A. pleaded the deed of defeasance, and alleged that he went to the appointed place on the appointed day, and executed the statute, and left it with the Clerk of the Statute to deliver to B., who was not then present. As, however, it was not in fact delivered to B., either by A. or by anyone on his behalf, on the appointed day, nor tendered to B. afterwards, and as B. could not maintain an action without it, judgment was given that A. must account, 142-150.

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ATTACHMENT ON PROHIBITION :

Where, as alleged, plea had been held, contrary to a Prohibition, in Court Christian, touching oak-trees cut down, and debt, the plaintiff brought one action against the Judge who had held the plea, and another against two persons who had prosecuted it. The Judge pleaded that no Prohibition had been delivered to him by the plaintiff, and that he did not hold any plea touching the oak-trees and the debt contrary to the King's Prohibition, and his wager of law thereon was accepted. Of the other two defendants, A. and B., A. pleaded that he was parson of a church and was entitled to tithe of underwood within his parish, and that he had caused the plaintiff to be cited because the tithe had not been paid, but only after a writ of Consultation had been obtained, *abque hoc* that he had prosecuted any plea touching any great trees or debt. Issue was joined on this plea to the country. B. pleaded

ATTACHMENT ON PROHIBITION—*cont.*

that he was parochial chaplain of A.'s parish, and that he had been commanded to cite the plaintiff to appear before the Judge touching the tithes of underwood, and had so cited the plaintiff, *absque hoc* that any Prohibition had been delivered to him or that he had prosecuted any plea touching any great trees or debt, and his wager of law thereon was accepted. The plaintiff was then excommunicated, and so the plea was put without day, 300-306 ; 307, note 1.

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ATTAINTE :

A. sued a writ of Attaint, which was returned by the Sheriff as having been received too late. A. then sued an *Alias* writ of Attaint, and B. the defendant also sued an *Alias* writ of Attaint, and the Sheriff returned the former as having been received too late, and the latter with a panel as having been served. The suing of the latter writ was disavowed on behalf of A., who alleged that the knights empanelled were B.'s relations, and prayed a *Pluries* writ of Attaint, which was granted, because B. had not yet a day in Court, 200-202.

ATTORNEY :

If, in Assise of Novel Disseisin, a defendant appears by attorney, and pleads in abatement of the writ, or in bar, and afterwards appoints another attorney without removing the first, and the second attorney

ATTORNEY—*cont.*

says he is ready to hear the verdict of the assise, the Court will have no regard to that which was said by the first attorney, but will give judgment of *Capiatur assisa*, 270-272 ; 286.

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Where the writ had been sued on the ground that the person who sued it had been compelled to execute a statute merchant by duress of prison, a *Venire facias* was granted against the obligee, 92-94.

Where A. had executed several statutes merchant in favour of B. and had in each statute had other obligors associated with him, there was an indenture of defeasance conditioned for the payment of a certain sum of money by instalments by A. B. sued execution, and A. sued an *Audita Querela* on behalf of himself and the other obligors on the ground that the condition had been performed, and he brought the whole sum of money into Court, and alleged that he had previously been ready to pay the instalments as provided in the indenture. The other obligors did not appear, but it was held that the writ of *Audita Querela* purchased for A. and for them in common was good, and issue was joined on the question whether A. had, as he alleged, duly tendered the instalments to B., 258-262.

B

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COGNISANCE OF PLEAS :

Where cognisance was claimed by the bailiffs of a liberty, who produced a royal charter to the effect that the inhabitants should not plead or be impleaded, in respect of certain matters, anywhere but within the liberty, and the charter did not mention before whom the pleas were to be held, the cognisance was refused by the Court of Common Pleas, 116.

If, on a writ of Account, receipt of part of the money be alleged in one liberty and part in another, cognisance will not be granted, as there cannot be cognisance by parcels, 120.

Cognisance was prayed by the Mayor and Bailiffs of a town lying within a certain manor, within which manor cognisance of pleas had been granted by the King to the Queen his mother, with license to her to grant the cognisance to her tenants within the manor. Cognisance was granted by her to the men or commonalty of the town having a Mayor and Bailiffs, which grant had been confirmed by the King. A Prior intervened, alleging that the tenants of the manor were his tenants, and not the Queen's. The demandant being non-suited, the claim of cognisance was, for the time, dropped, 150-158.

CONSULTATION :

Writ of, 230 ; 303, note 3 ; 306.

COGNAGE :

Where it was alleged in the count that the *consanguineus* A., on whose seisin the action was brought, had died without heir of his body, the tenant pleaded that he was himself the son and heir of A., to which it was replied that he was born out of wedlock. The question arose whether this was a good replication without a definite statement that

COSINAGE—*cont.*

the tenant was a bastard. In the end the tenant rejoined that he was born in wedlock, and issue was joined on that rejoinder, 562-564; 565, note 2.

CONTEMPT:

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COVENANT:

Where the action was brought to recover a term of years, the defendant pleaded that he entered because covenants had been broken, and in particular because the rent had not been paid. The plaintiff replied that he had tendered the rent on the appointed day, and that all the other covenants had been observed. Issue having been joined on this replication, a jury found that the plaintiff had observed all the covenants except the payment of rent, and had paid six marks out of eight which were due, but neither paid nor tendered the other two, on the appointed day, that the defendant entered, that on the day on which he entered the plaintiff tendered the two marks, and that the defendant refused them, and remained in possession of the land. The plaintiff then tendered the two marks in Court, and the defendant accepted them, the lessor according to the indenture having only power to enter and hold until satisfaction had been made. The Court gave judgment for the plaintiff to recover his term with damages, but, as it was subsequently ascertained that the term had expired, to recover damages only, 106-108.

The action was brought by A., son and one of the heirs of B., against C., on the ground that a covenant was made between B. and C. to the effect that, after partition between

COVENANT—*cont.*

them of certain partible gavelkind lands, C. would acquit B. and his heirs of the services due for the whole of the tenements of which partition was made to the superior lord, and that C. failed to acquit. It was objected that, as no damage was shown, the action did not lie, but, as the covenant was simply for acquittal of services, without any reference to distress levied for them, the objection was over-ruled (*quod mirum fuit*, says one of the reporters). The plaintiff, however, being under the age of 21 years, appeared by guardian, and it was alleged, and not denied, that he had, in accordance with the custom of gavelkind, after reaching the age of 15 years, aliened his land, and taken back an estate to himself and his wife. *Quære* whether, in these circumstances, the action could be maintained. The Court adjourned to consider the point, but no decision is shown, 346-360.

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D

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DEBT :

Where the writ was brought against an Abbot, and the declaration was that his predecessor had bound himself, with the consent of the Convent, and the defendant pleaded that the deed was that of the Abbot alone, issue was joined on the replication that it was the deed of the Abbot and Convent, 96-98.

Where the debtor had bound himself and his heirs by obligation, and the action was brought against the heir, issue was joined on the question whether lands and tenements had descended to the heir from the debtor by descent of inheritance, and, upon the finding of a jury in the affirmative, judgment was given for the plaintiff to recover the debt and damages, 136-138 ; 139, note 1.

Where an obligation was produced in which the defendant bound himself to pay the plaintiff twenty pounds if he failed to pay twenty marks on an appointed day, it was pleaded that the Court could not take cognisance because that which was demanded was usury, but the objection was over-ruled, 320-322.

See **ABATEMENT OF WRITS ; EXCHEQUER ; EXECUTORS.**

DECEIT :

A husband and wife having lost by default what was the right of the wife, she, after her husband's death, prayed a writ of Deceit. It was objected that she ought instead to

DECEIT—cont.

have brought a writ of *Cui in vita*, but it was held that the provision by statute of the writ of *Cui in vita*, in place of a writ of Right, did not deprive her of the writ of Deceit, which was therefore allowed, 426-428.

Where A., a defendant in *Scire facias* on a fine, had execution awarded against him, he sued a writ of Deceit. The garnishers and the under-sheriff were examined, and stated that A. had been duly warned to appear on the day mentioned in the *Scire facias*. Judgment was therefore given that A. should take nothing by his writ, 520-522.

Where, on a writ of Waste, the waste was found by verdict, the defendant afterwards prayed a writ of Deceit, on the ground that he had not been summoned, attached, or distrained, and it was granted. His prayer that the writ might be directed to the Coroners instead of the Sheriff, because the Sheriff was implicated, was, however, refused, 522.

See **PROTECTION.**

DETINUE :

A verdict having been found for the plaintiff at *Nisi prius*, with damages to the amount of 10 marks if the writing detained had not been burnt or eloigned, and of 20 marks if it had, judgment was prayed in the Common Bench for the 20 marks, but not given. A writ of enquiry of damages *de novo* was granted, because enquiry ought to have been made at *Nisi prius* whether the writing had been burnt or eloigned, or not, 74-76.

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Mode of proceeding where the husband's heir had been vouched in two counties, and judgment had been given that the demandant should recover against him if he had anything in the county in which the action was brought, and if not against the tenant, and a dispute arose on the Sheriff's return that he had made livery partly out of the heir's inheritance, and partly out of the tenant's land, 64-66.

If the tenant vouches the husband's heir as being in the wardship of a particular guardian, and that guardian appears and counterpleads the voucher on the ground that he is not sole guardian but there are others not named in the voucher, and issue is joined with the tenant on that point, the demandant will not have immediate judgment against the tenant, but will be delayed until the issue has been tried, 72-74 ; 75, notes 1 and 11.

Where the tenant vouched the husband's heir who was in the demandant's wardship, the demandant appeared as vouchee by attorney, and demanded dower in person. As vouchee she admitted the heir's liability to warrant, but alleged that she had nothing of his inheritance in wardship. Judgment was given for her to recover her dower against herself if she had assets of the heir's inheritance in wardship, and, if not, against the tenant, and the tenant was, in the latter case, to have to the value out of the land of the heir, 114-116.

Where the action was brought against husband and wife, and the wife was admitted to defend on her husband's default, she vouched the heir of the demandant's husband to warrant. The Sheriff returned that he could not be summoned, but he neverthe-

DOWER—cont.

less appeared, and entered into warranty as one who had nothing by descent. It was objected that, as he had not been summoned, he should not be admitted to warrant, but, as it could not be denied that he was the person who was vouched, judgment was given that the demandant should recover against him if he had assets, and if not against the tenant, and the tenant over, 134.

Judgment in, in a Court of Ancient Demesne, and writ of False Judgment thereon, 204-210. (*See SCIRE FACIAS.*)

The tenant vouched the husband's heir in the county in which the demand was, and in other counties, and he entered into warranty as one who had nothing by descent in the same county, without asking by what the tenant could bind him to warrant. Judgment was given that the demandant should recover against the heir, if he had assets in the same county, and, if not, against the tenant, in which case the tenant was to recover over. It was afterwards prayed that the judgment might be amended because the heir warranted of his own free will, and not in virtue of his ancestor's deed, in which case the judgment should be simply for the demandant to recover against the tenant, and the tenant over to the value. It was held that as judgment had been actually given it could not be amended, whether right or wrong, as the parties were out of Court, although the prayer was made in the same term and before the judgment had been entered on the roll, 328-330.

Fine admitted on writ of, 362-364.

The tenant vouched the husband's heir who was under age, but who appeared and warranted. The demandant, being questioned, said

DOWER—cont.

that the heir had assets by descent, and judgment was given that she should recover against the heir simply, 400-402.

If the husband's heir be vouched, and his surname in the voucher is in French, and in the process thereon in the equivalent Latin (as de Montagu and de Monte Acuto) it is not a variance which will effect a discontinuance, 420, 422-423.

If an infant be vouched as being out of wardship, when he is in fact in the wardship of the king, judgment will be given for the demandant to recover her dower against the tenant, and the vouchee will go quit of the voucher, 420, 422, 424.

Where the tenant vouched the husband's son and heir, and, on the appearance of the supposed vouchee, tendered the averment that it was not the same person, he was compelled to assign diversity of father or mother, and alleged that it was the son of a stranger, and not of the husband, who had appeared. Issue was joined on the replication that it was the same person that had been vouched, 538-540. [But see *Y.B., Mich., 20 Edw. III., No. 78.*]

Where the tenant pleaded that the demandant detained certain muniments which affected his inheritance, and that he was and always had been ready to render dower to her upon receipt of them from her, and she produced them in Court, and he accepted them, judgment was given that she should recover her dower against him, but that he should be pardoned in respect of amercement because he had appeared on the first day of Term, ready to render dower, 568-570.

Where the action was brought against husband and wife, they alleged that she had nothing, and the husband took the tenancy upon himself. He

DOWER—cont.

then vouched himself, by another surname, and his wife. The voucher was counterpleaded on the ground that the husband and wife held jointly, and that he was the same person. It was held that he need not answer as to being the same person, but only as to the joint tenancy, 584-586.

See **WARRANTY.**

DOZENERS:

decennarii or tithing-men, 528-536.

E

EJECTMENT FROM WARDSHIP:

When the writ is brought against several persons, and one only appears, and process has issued to bring the others into Court, the plaintiff is not allowed to count against him before the appearance of the others, 440-442.

ELEGIT:

See **EXECUTION.**

ENTRY, *ad terminum qui præterit*:

See **ABATEMENT OF WRITS.**

ENTRY, *de quibus*:

The action having been brought by A. against B. on the ground of an alleged disseisin of A.'s father C. by B., it was pleaded by B. that his brother D. died seised, that, after his death, C., who was of the half-blood to D., abated on B.'s possession, and that B. ousted him. A. replied that his grandfather E. died seised, that C. entered as his son and heir, and was seised until disseised by B. It was then rejoined by B. that E. did not die seised, and this was held by the Court to be a good issue, 388-390.

ERROR :

On a writ of Error to reverse a judgment of execution on a *Scire facias* on fine of lands it is not necessary for the plaintiff in Error, before assigning the errors, to produce the fine on which the *Scire facias* was founded, 190-196.

ESCHEAT :

Where the writ was grounded on the outlawry for felony of one who held of the demandant, and it was pleaded that, before his outlawry, and before the commission of the felony, he had already forfeited to the King through having been adherent to the King's enemies, the demandant was nonsuited, 176-180 ; 181, note 1.

See ABATEMENT OF WRITS.

ESSOIN :

Where A. had sued an Appeal to the Court of Rome against B., the King's presentee, in respect of a church to which the King had recovered a presentation by judgment, and the King had sued a *Pone per vadium* against A., the Sheriff returned *Non est inventus*. A. was nevertheless essoined, but the essoin was quashed because the writ had not been served, 118.

Where the attorney of a party had been essoined on one writ, and the party prayed to be admitted to defend his right on another writ, his presence was recorded, and the essoin cast for his attorney was quashed, 118-120.

Where an essoin was cast for a wife who had been admitted to defend her right on her husband's default, and there was no mention in the essoin of the fact that she had been so admitted, it was quashed, 134.

An essoin *de malo lecti* cannot be cast, with other essoins, on the common day, but must be cast at least three days earlier, 317.

ESSOIN—cont.

An essoin *de malo lecti* lies only on a writ of Right, and not on a writ of Aiel, 317.

One who casts an essoin *de malo lecti* is to be viewed by four knights, and if they find him sick, as alleged, they are to appoint a day for his appearance a year and a day after the day of view. If he is found to be not sick, his essoin is to be turned into a default, 317-319.

Where a cause has been adjourned into the Common Bench, by reason of foreign voucher in the city of London, the tenant may be essoined, 480-482.

Allowed after verdict, and before judgment thereon, in Waste, 486.

A common essoin is allowed for a tenant who has vouched, after the award of the *Sequatur suo periculo*, unless he has previously been essoined after voucher, 538.

ESTOPPEL :

* Neither a plaintiff who has made a particular declaration, nor a defendant who has made a particular avowry, on a writ of Replevin, can vary it upon a writ of Second Deliverance, 15.

EXAMINATION :

See DECEIT.

EXCHANGE :

Arguments relating to the doctrine of exchange of lands, 54-64.

EXCHEQUER :

When the King's debtor. A., alleges in the Exchequer of Pleas that another person, B., is indebted to him in a certain sum, and prays that B. may answer to the King in respect of that sum as in part payment of his own debts to the King, B. is not permitted to wage his law in denial of his alleged debt to A. Nor can B., after having proffered his law, join issue to the country, but

EXCHEQUER—cont.

judgment is given for the King to recover against him the amount of his debt to A. in part payment of A.'s debt to the King, 16-20; 21, note 2.

Privilege of the Barons of the Exchequer and their servants in respect of trespasses committed against them, 202.

EXCOMMUNICATION :

A writ of Prohibition and another writ, having been directed to a Bishop, were delivered to him by the King's messenger, whom the Bishop's Commissaries excommunicated for having delivered them. A writ of Contempt was thereupon brought in the names of the King and of the messenger against the Commissaries, to punish them for the contempt of the King, and to obtain damages for the messenger. The Commissaries pleaded first a disability in the person of the messenger - that he was an excommunicate, and therefore not in a condition to be answered, and made *proport* of the same Bishop's letter of excommunication. The Court held that, in the absence of anything to show the contrary, this excommunication must be regarded as identical with that for which the writ was brought, and that the defendants must answer. Thereupon a letter from the Archbishop of Canterbury was produced, on behalf of the defendants, to the effect that he had found, among the Acts of the Court of Arches in London, that the messenger was under various sentences of greater excommunication. Again the Court held that as the letter did not specifically assign any other cause of excommunication, it must be for the cause for which the action was brought, and that the defendants must answer. There was then a plea to the jurisdiction, on

EXCOMMUNICATION—cont.

behalf of the Commissaries, that the Common Bench could not have cognisance in respect of the cause of any excommunication, which must be tried and decided in Court Christian. To this it was replied on behalf of the King that the excommunication was the ground of the action, which could not be prosecuted in any Court but the King's, and so the Court held. The Commissaries would not, when asked, make any other answer, and judgment was given against them as persons who made no defence, 214-232.

A letter from a Dean alleged to be exempt from the jurisdiction of the Ordinary, and to possess in his own person the jurisdiction of Ordinary, will not be accepted in proof of excommunication, and neither the seal nor the testimony of anyone but a Bishop can be accepted for the purpose as authentic, 378; 382. See ATTACHMENT ON PROHIBITION.

EXECUTION :

Where an Abbot had recovered damages, and prayed execution by *Elegit*, it was granted by the Court after consideration, 96.

Against an Abbot by *Elegit*, 450.

Where a plaintiff has recovered damages in one county, A., and alleges that the defendant has nothing in that county whereof he can have execution, and prays an *Elegit* to be directed to the sheriff of another county. B., he cannot have it until the Court is apprised by a return of the Sheriff of A. that the defendant has nothing therein, 502-504.

Where an annuity had been recovered, and the plaintiff had sued a *Fieri facias*, and the Sheriff had returned that the defendant had nothing, the plaintiff could not have an *Elegit*

EXECUTION—*cont.*

but only an *Alias Fieri facias* in respect of the same matter, but was allowed to have an *Elegit* in respect of a subsequent term of the annuity, 554.

See SCIRE FACIAS.

EXECUTORS :

The provisions of the statute 9 Edw. III., St. 1, c. 3, do not apply where a person named as executor has declined to act, and has not administered, 188.

Where an action of Debt is brought against an executor, it is not sufficient for him to plead that the testator's goods did not come into his hands as executor, unless he shows in what other way they did come, but he must say absolutely that the goods never came into his hands, 188-190.

If executors bring a writ of Debt, and produce the debtor's obligation by which he has bound himself to them as executors, they need not produce the will to prove that they are executors, because the deed is sufficient evidence as between them and the debtor, 320.

EXTENT :

See STATUTE MERCHANT.

EYRE :

Judgment of Court of. See REPLEVIN.

F

FALSE JUDGMENT :

When the record of a Court of Ancient Demesne is brought into the Common Bench in return to a writ of False Judgment, and the original writ is not brought with it, it is not a full record, and a writ issues to distrain the bailiffs to send the original writ, 492-494.

See SCIRE FACIAS.

FINES OF LANDS, &c. :

Examples of, admitted or refused, 118 ; 160 ; 480.

On writ of Dower by *licentia concordandi*, and the form of it, 362-364.

See ERROR.

FISHERY :

See ABATEMENT OF WRITS (Aiel).

FORMEDON :

To an action of Formedon in the remainder it is a good plea that the supposed donor was never seised so that he could make a gift, because the action is taken entirely on the seisin of the donor. But it is otherwise in an action of Formedon in the descender, in which the gift itself must be traversed, 382.

In an action of Formedon in the descender in respect of a manor it was pleaded that the supposed donee had been seised of two acres of land as parcel of the manor, and had given them to A., who became seised thereof, and was so seised on the day of the purchase of the writ, and that A. was not named in the writ, which was consequently bad. Issue was joined on the question whether A. was seised of the two acres on the day on which the writ was purchased, 554-556.

FRANCHISE :

See LIBERTY.

G

GAVELKIND :

See COVENANT.

GREEN WAX :

Levying of the King's debts in virtue of Summons of the, within a Liberty, 238 ; 240 ; 242 ; 245, note 4 ; 246 ; 252.

GUARDIAN :

The warrant of a guardian is not of the same nature as a warrant of attorney, because it is a person of full age who appoints an attorney at his own peril, while a guardian is allowed to an infant by the Court, which will itself amend any verbal errors, 422.

H

HUE-AND-CRY :

See **LIBERTY**.

J

JUDGMENT :

See **DOWER**.

JURORS AND JURY :

See **CHALLENGE ; TRESPASS**.

K

KING, THE :

There can be no final judgment against the King in respect of land, 312.

Or on a writ of Right of advowson, 416, 418.

But final judgment shall be given for him, 418.

There shall be no tender of the half-mark for enquiry as to the time of seisin, when the King is demandant in a writ of Right of Advowson, 416.

Held that in *Quare impedit* the King can maintain his action when it is brought in one county, and the church is in another county, 510.

But this was denied to be law by Hillary, J., 512.

See **EXCHEQUER**.

L

LIBERTY :

Where the lord of a liberty (A.) has the franchise of having execution of writs by his bailiff, and the bailiff, in accordance with a precept from the Sheriff, proceeds to distrain, within the liberty, one of the resiants, for the King's debt, but is interrupted by another person (B.), the latter commits a trespass *vi et armis*, and A. will recover damages against B. It is no justification for B. to allege that he has, within the liberty, a manor in which there is a custom that whenever the bailiff of the liberty effects any distress for the Green Wax, or other money owing to the King, upon any tenant of the manor, the bailiff ought to take the distress to B.'s pound within the manor to remain there for three days and three nights, so that, if the tenant pays the money within the time, he can have his beasts quit, because such a custom could not be any profit to B., but rather the reverse, 236-256 ; 251, note 2.

The steward and bailiff of a manor which is within a liberty, and in which the lord of the liberty (A.), as alleged, has a several fishery, find another person (B.) fishing therein, and raise hue-and-cry upon him as for something done against the peace, and the bailiff of the liberty comes and attempts to attach B., and B. resists. B. pleads to an action of Trespass that he is lord of a certain manor, and has within that manor view of frankpledge, *absque hoc* that A. has cognisance of anything touching view of frankpledge within that manor. He alleges also that the manor is situated upon the river in which he

LIBERTY—*cont.*

fished, and that the soil beneath the river *usque filum aquæ* is soil of that manor, and parcel thereof, *absque hoc* that he fished anywhere else within the liberty, or that the hue-and-cry was raised upon him anywhere else, or that he prevented the bailiff of the liberty effecting an attachment anywhere else. Judgment was given in favour of B., and A. took nothing by his writ, 236-256; 251, note 2.

See ABATEMENT OF WRITS (*Præcipe quod reddat*).

LONDON :

In an Appeal of Robbery the plaintiff, who was a citizen of London, accepted the wager of battle tendered by the defendant. An objection was raised on behalf of the citizens of London to the effect that the plaintiff ought not to be admitted to put himself on the trial by battle because it would be to the prejudice of their royal franchise that no battle should be waged against any of the citizens. The Court adjourned for consideration, 134-136.

Foreign voucher in the city of, 186.

M

MAINPRISE :

Where a defendant in Trespass has found mainprise, and cancelled or broken it, and been brought into Court by *Capias*, he cannot again be allowed to find mainprise on the same original writ before he has pleaded, but after pleading he may, 380-382.

Where a defendant in Account has appeared and denied the receipt of money, and issue has been joined thereon, and he has been let out on mainprise, and then made default, and judgment has been given that

MAINPRISE—*cont.*

he must account, and he subsequently produces a deed of release of all actions which is denied by the plaintiff, he may again be let out on mainprise, because a new issue is to be tried, 498.

A defendant in Attachment on Prohibition, having, as alleged, caused citations to the Court of Rome to be made to the King's presentee to a church, contrary to the King's Prohibition, was held to mainprise after pleading to issue; but the Court gave warning that, should he make any further appeals or citations to Rome in the meantime, the mainpernors would be held to ransom at the King's will, even though they should bring in his body on the appointed day, 524-526.

MANOR :

See REPLEVIN.

MESNE :

Where the declaration was that the plaintiff held of the defendant by fealty and rent, and the defendant pleaded that he had no fee or seignory in the land except a rent seck, and the plaintiff objected that the defendant could not be permitted to say that the rent was of any other kind than rent service without denying that he was seised of the plaintiff's fealty, the objection was not allowed, and the plaintiff had to aver that he held the tenements by the services alleged, and that the defendant was bound to acquit him, 234-236; 237, note 2.

A., being B.'s superior lord, distrains B.'s tenant, C., for homage and relief, and C. recovers damages against B. in an action of Mesne. B. then brings an action of Mesne against A. as having been distrained for the damages recovered by C. *Quere* can A. demand oyer of the record, 318-320.

MISNOMER :

The tenant in a real action pleaded in abatement of the writ that her right name was Cecilia and not Celota as stated in the writ. The replication upon which issue was joined was that her right name was Celota and not Cecilia, and that she was known by the name of Celota, 558-560.

MORT D'ANCESTOR :

In an Assise of Mort d'Ancestor brought before Justices of Assise, the defendant (A.) pleaded that he had brought a writ of *Cessavit* against another person named (B.), on which he had recovered the tenements, and that the estate of the plaintiff's ancestor was mesne between the date of the writ and the date of the judgment thereon, and he prayed judgment whether there ought to be an assise in such a case. The plaintiff replied that while the writ of *Cessavit* was pending, B. enfeoffed his ancestor, that his ancestor tendered the arrears of rent and all the services due to A., and that A. accepted them, and produced a deed to that effect. He, therefore, prayed that the assise might be taken. On A.'s rejoinder praying judgment whether the assise ought to be had, the matter was adjourned into the Common Bench. It was there argued that the receipt of the rent and services by A., while the *Cessavit* was pending, extinguished that action, and, in the end, the Court gave judgment that the assise should be taken. The record with the original writ and panel were accordingly returned to the Justices of Assise for that purpose, 308-316.

N

NAME :

See ABATEMENT OF WRITS (Account).

NISI PRIUS :

A Justice of *Nisi prius* may amend his record after he has returned it into the Bench, if it is not sufficiently full, and may add to his original statement concerning the verdict, 402-404.

See DETINUE.

NONSUIT :

If a writ is brought by several *Præcipes* against several tenants, one of whom vouches, and one day is given on that *Præcipe* and another day on the others, and the demandant is non-suited on one of those others, it is not a non-suit with regard to all the *Præcipes*, though it would be if he had the same day on them all, 536-538.

See QUID JURIS CLAMAT.

NOVEL DISSEISIN :

Pleadings in Assise of, where the action was brought against a tenant in dower by three daughters of the husband—two by his first wife and one by his second wife divorced—who had been ousted by the guardian of the son of a fourth daughter by a third wife, which guardian had made the assignment of dower, 124-132.

Pleadings in, where the action was brought by husband and wife. The principal pleas of one of the defendants were that the husband had, by deed, released to him all the tenements with certain exceptions, and that with regard to a part of what was excepted the wife had, while sole, executed a release to him. The replication touching the husband's

NOVEL DISSEISIN—*cont.*

alleged release was *Non est factum*, upon which issue was joined to the jurors of the assise, and the witnesses of the deed. As the date of the deed was in a county (A.) other than that in which the Assise was brought (B.), the *Venire* was directed to the Sheriff of A. to cause the witnesses to come, and in addition twelve jurors from the neighbourhood of the place in which it was alleged that the deed was executed. The reply touching the release alleged to have been executed by the wife while sole was that at the time of its execution she was the wife of the husband who was plaintiff with her. It was argued that this was insufficient without the addition of the words "and covert." The objection, however, was over-ruled, and issue was joined on the defendant's rejoinder that she was not the husband's wife on the day of the execution of the deed, and judgment of *capiatur jurata loco assise* was given, 276-282; 283, note 1; 285-288.

Challenge of the array and of the polls in Assise of, 486.

See ABATEMENT OF WRITS (*Scire facias*); ATTORNEY.

O

OUTLAWRY:

Effect of the condition in a charter of pardon of, 430.

See PROTECTION.

P

PARLIAMENT:

Petition in, 332-334.

PLEADING:

See APPEAL; ATTACHMENT ON PROHIBITION; COSINAGE; COVENANT; DARREIN PRESENTMENT; DEBT; EJECTMENT FROM WARDSHIP; ENTRY *de quibus*; ESCHEAT; EXCOMMUNICATION; EXECUTORS; FORMEDON; MESNE; MISNOMER; MORT D'ANCESTOR; NOVEL DISSEISIN; QUARE IMPEDIT; QUARE NON ADMITIT; QUID JURIS CLAMAT; REPLEVIN; SCIRE FACIAS; TRESPASS.

PONE:

See RIGHT, WRIT OF.

PRÆCIPE QUOD REDDAT:

See ABATEMENT OF WRITS.

PROCESS:

A Bishop having brought a writ of Annuity against a clerk beneficed in his own diocese, and the Sheriff having returned that the clerk had no lay fee, the Bishop prayed a writ to himself to cause his own clerk to appear, and this was awarded, though the defendant prayed that the writ might be sent to the Metropolitan, 478-480.

PROTECTION:

Where a writ of Deceit was brought on the ground that a Protection had been produced for a party who was thereby supposed to be at Berwick on Tweed, when he was in fact abiding in England, the same Protection was produced and allowed because the time of protection had not expired, 26; 27, note 1.

PROTECTION—*cont.*

A defendant in Account, having been outlawed, obtained a charter of pardon of outlawry, whereupon the usual *Scire facias* issued to warn the plaintiff to appear. Issue was joined in the Common Bench, but the defendant failed to appear at *Nisi prius*. The Justice did not take he inquest by default at *Nisi prius*, but afterwards recorded the default in the Common Bench. A Protection was there produced for the defendant. It was objected that a Protection did not lie, that the charter of pardon had lost its force, and that a *Capias utlagatum* should issue against the defendant. It was held that the inquest ought to have been taken on the defendant's default at *Nisi prius*, but, as that had not been done, the defendant was still a party on the original writ of Account, and that the Protection must be allowed, 564-568.

PROVISIONS:

Papal, 522-524; 526.

Q

QUALE JUS:

Writ of, where a Prior had recovered, after default of the tenant, on a *Quod permittat* in respect of suit of villeins to a mill, 360.

QUARE IMPEDIT:

The King's claim to present was that a Prior (A.) had been seised of the advowson and presented, and that the King had, after that Prior's death, seized the temporalities of the Priory into his hand, and had demised them to the Sub-prior and Convent for the period of the vacancy, reserving to himself the

QUARE IMPEDIT—*cont.*

fees and advowsons, that a succeeding Prior (B.) intruded upon the temporalities so demised, that upon B.'s resignation the King again seized the temporalities and demised them to the Sub-prior and Convent, that the existing Prior (C.) intruded upon them, the advowsons still remaining in the King's hand, because neither B. nor C. had sued them out of the King's possession, and that in the meantime the vicarage had become void by the resignation of A.'s presentee. The defendant would have pleaded that the vicarage was not void while the temporalities, fees, and advowsons were in the King's hand, but was compelled to say that it did not become void between the time of the King's first seizure and the restitution. There was a replication that there was one voidance by resignation and another by death (the names being mentioned) between the two times, and upon this issue was joined, 20-24; 25, note 5.

The King claimed, against a Bishop, a presentation, on the ground that King John, having been seised of the advowson, had presented to the church, that King John had given the advowson to a Prior in frankalmoign to hold of him and his heirs, and that the Prior had afterwards aliened to the Bishop's predecessor in mortmain without license. The Bishop in his plea traversed the seisin of King John, the admission of a presentee on his presentation, the gift to the Prior, and the alienation without license, 102-104; 105, note 1. After adjournment for consideration, it was held by the Court that averments to a jury on the four points could not be admitted, and that the Bishop could have an averment on one only of the four at his election. He elected to plead that

QUARE IMPEDIT—*cont.*

the presentee was not admitted on King John's presentation. It was then objected, on behalf of the King, that the Bishop could not, after adjournments, vary his first answer. After further adjournments, however, there was a replication, on behalf of the King, that the Prior did aliene the advowson without license, and upon that issue was joined, 105, note 5; 290-292.

Where the King's title was that A. had been seised of the advowson, and had presented to the church, and had aliened the advowson in mortmain without the King's license, and the plea was that the supposed presentee was not admitted on A.'s presentation, the defendant was not allowed to vary that plea afterwards by traversing the other parts of the King's title, although he had made a protestation that he did not admit them, 108-114.

Further pleadings thereon, 338-342.

The plaintiff's alleged ground of action was that a composition had been made between his ancestor and the predecessor of the defendant (an abbess) to the effect that the abbess and her successors should present twice and the plaintiff's ancestor and his heirs at every third turn, and that presentations had been subsequently made in accordance with the composition, the names of all the presentees being mentioned. The defendant (not admitting the composition) pleaded that she and her predecessors had been seised of the entire advowson from time immemorial, alleging that a presentation supposed by the plaintiff to have been made by his ancestor had in fact been made by the defendant's predecessor. Issue was joined on the plaintiff's replication that the presentee had been admitted and instituted on the presentation of

QUARE IMPEDIT—*cont.*

the plaintiff's ancestor, 180-184; 185, notes 1 and 2.

Where a plaintiff (A.) brought his writ against two persons (B. and C.) and supposed by his writ and the commencement of his declaration that the right to present belonged to himself alone, but supposed by the conclusion of his declaration that it belonged to himself and B., it was held that he could not take anything by his writ by reason of the variance. B. ought to have been named as plaintiff with A. and named as defendant also. B., however, not having made a title for himself in his plea, could not have a writ to the Bishop on the ground that A. had made a title for him in the declaration, because the title was to A. and B. in common, 262-270.

Where the King claimed a right to present on the ground of an alienation in mortmain to a Prior, without license, and the alienation was denied, and a title in the Prior by prescription was pleaded, it was alleged on behalf of the King that the alienation was made by fine in the time of King Edward I., and in support of the allegation *proferret* was made of a fine of the time of Henry III. *Quære* could the fine be accepted as proof of the alienation, 398-400.

Where the King claimed a presentation on the ground that the temporalities of an Abbey had come into the hands of his grandfather on the decease of an Abbot, and it was pleaded and not denied that the King had already presented, and that his presentee was parson imparsonnee, judgment was nevertheless given that the King should have his presentation *hac vice*, and should have a writ to the Bishop, 442-446; 447, note 2.

QUARE IMPEDIT—cont.

No plea to be begun in, before the fourth day of Term, 454-456.

Mode of proceeding where there are cross actions, one by A. against B. and C., and the other by B. against A., and A. wishes to disavow his action after continuance, 454-460.

Where A. brings an action against B., and B. another against A., and A. in answering B. claims the advowson, he need not make a separate count on his own writ, 464-468.

Pleadings in, where the plaintiff claimed the presentation in virtue of a gift from his father to himself in fee, and where the two defendants alleged that the father died seised of certain land to which the advowson was appendant, that the land was partible among male heirs, and that it and the advowson therefore descended not to the plaintiff alone but to him and his brothers, the defendants, 460-478.

A mistake in a statement of descent from co-parceners does not abate a declaration for the King, when it does not vitiate the King's title, 508-510.

A plea in abatement of the count or declaration precedes a plea in abatement of the writ, 510.

In respect of a presentation to a precentorship, 526-528; 527, notes 1 and 4; 529, note 1.

See ABATEMENT OF WRITS; KING, THE.

QUARE NON ADMISIT:

Pleadings in, with special reference to the question whether a Bishop who has, in a *Quare impedit*, made no claim except as Ordinary, can in a subsequent *Quare non admisit* allege plenarty of the church at the time at which he received the King's writ requiring him to admit, 26-38.

Pleadings in, where the King had recovered against A. the presentation to an Archdeaconry by default on a

QUARE NON ADMISIT—cont.

writ of *Quare impedit* in which no title had been inserted, and where the King had another writ of *Quare impedit* pending against B., the defendant in the *Quare non admisit*, in which writ also no title had been inserted, and where B. alleged that neither A. nor any of his predecessors or ancestors had any interest in the archdeaconry except as archdeacon, against whom a writ of *Quare impedit* did not lie, 162-170.

The action having been brought by the King against the Archbishop of York, the latter pleaded disability in the person of the King's presentee, alleging that he was not a clerk, but a layman and illiterate. On behalf of the King the averment was tendered that the presentee was able, and a fit person, and sufficiently literate. It was then argued, on the one hand, that the question could not be tried by a jury, but was one for decision by a Court Christian. It was argued on the other hand that it could not be sent for decision by the Archbishop, who was a party in the cause, nor to the Dean and Chapter, who were the Bishop's subordinates. The Court adjourned for consideration, but their judgment does not appear. The King, however, afterwards sent his letters patent to the Court, by which he revoked all previous collations to the benefice, and gave it to another nominee, 362-370.

QUID JURIS CLAMAT:

Where the writ was brought against two persons, A. and B., and it was pleaded on behalf of A. that she held nothing then or on the day of the levying of the fine, and on behalf of B. that A. being seised of the tenements before the levying of the fine, by virtue of a gift to her and her husband in frankmarriage,

QUID JURIS CLAMAT—*cont.*

leased her estate to him after the death of her husband without issue, and (by way of protestation) that the donor had released all right to him, the plaintiff was compelled to maintain the note of the fine, and issue was joined on the averment that A. and B. held jointly. The defendants were not permitted to appoint an attorney, as they prayed to do on the ground that a fee was claimed, because the claim was not a part of the plea, 2-4.

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In respect of suit of villeins to a mill, 360.

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RAVISHMENT OF WARD :

Writ of and pleadings thereon, 540-546.

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Where in an action of Waste husband and wife had pleaded "no waste committed," and at *Nisi prius* the husband made default, and a jury found the waste, and the plaintiff afterwards prayed judgment in the Common Bench, the wife was there admitted to defend her right, 134-136; 446-448.

Where land had been given to a man and his wife and the heirs of their

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bodies, and the husband died, and an action demanding the land was brought against the wife and she made default, and the heir in tail prayed to be admitted to defend his right, he was not admitted because the wife had a fee tail. Seisin of the land was awarded to the demandant, 186.

REPLEVIN :

When a plaintiff has been non-suited upon the original writ of Replevin, and the defendant has taken the cattle a second time, and the plaintiff has upon the original writ alleged that he held only a moiety of certain tenements of the defendant, and confesses upon the writ *de Secunda Deliberatione* that he holds two thirds of them, and he has not offered the services due for the two thirds, the defendant has the Return of the cattle irreplevisable, 6-14; 15, note 11.

If one of two defendants, being the principal, denies the taking, and the other as his bailiff makes cognisance for a cause assigned, the bailiff cannot have aid of his principal, but may excuse himself with regard to damages by his cognisance, to which the plaintiff will have to plead, 40-44; 45, note 1.

Where the avowry was for homage and fealty in arrear, and the plaintiff alleged that he had tendered the homage and fealty before the taking of the beasts, issue was joined on a traverse of that allegation, 44-48; 49, note 7.

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The avowry being for services in arrear, it was pleaded that the avowant's alleged seignory was mesne and had been extinguished

REFLEVIN—cont.

in the following way. A. was lord paramount, the avowant's ancestor B. held of A., and enfeoffed C. to hold of him (B.) by certain services. The tenements held by C. came into the hands of D. and he enfeoffed the lord paramount A., whose estate in the tenements the plaintiff in Rlevin (E.) alleged that he had. It was held by the Court that, if the facts were as alleged, the mesne seignory had been extinguished. The avowant replied that, before the statute *de prerogativa Regis*, A. had enfeoffed one F. of the tenements, to hold of A. by the services claimed in the avowry, that F. had enfeoffed E.'s ancestor, by whose hand A. was seised of the services, and that A. afterwards granted the services to the avowant's ancestor, to whom E.'s ancestor attorned, and that so the seignory accrued to the avowant at a later time. E. rejoined that A. enfeoffed F. of the tenements before the statute *de prerogativa Regis*, to hold of A. by less services than those mentioned in the avowry, and made *profert* of A.'s charter to that effect, but he was compelled to traverse the alleged attornment, and issue was joined upon that traverse, 86-90 ; 322-326 ; 327, note 1.

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REFLEVIN—cont.

grantor was not seised of the manor as supposed in the avowry, without traversing the grant, or the attornment, or the statement that the services were parcel of the manor ; and issue was joined on the question whether the supposed grantor was seised of the seignory and services, 170-174 ; 175, note 1.

Where the avowry was for services in arrear, the seisin of which by the avowant's father was alleged to have been by the hand of the avowant's mother, and the plaintiff pleaded that they were granted to the avowant's father and mother, and their heirs, by fine, and the avowant in reply tendered the averment that his father was seised by the hand of his mother before marriage, the averment was accepted, and issue was joined thereon, 174-176.

Where the avowant has joined issue on the plea "out of his fee," and afterwards makes default, and the jury is ready at the bar on the second day after issue joined, their verdict is taken on his default, but, if on the first day, he is distrained to hear the verdict, 236.

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Cognisance was made by a bailiff of an honour in Berks, to which, as alleged, there was regardant a Court Leet in a manor or vill in Bucks, within which vill the plaintiff was resiant. The plaintiff did not attend the Court Leet, as required by due summons, and was therefore amerced, and he was distrained for the amount at which the amercement had been assessed. The plaintiff pleaded a record of the Court of

REPLEVIN—cont.

King's Bench showing that the manor was held of the King as of his Crown, and not of the honour. The defendant replied that in the record the manor or vill was described as being in Berks, whereas the *Recordari* to bring the action of Replevin into the Common Bench was sued in Bucks, and he prayed judgment whether he need answer to it. The Court was of opinion that the manor in one county which had been discharged could not be held to be a manor in another county, and the plaintiff was nonsuited, 330-338; 339, note 1.

Where the avowry was of a taking of beasts *damage feasant* in the defendant's several, and the plaintiff pleaded that the place of taking was a common way used for driving beasts to and from a forest where they were agisted, the defendant was allowed to aver in reply that it was his several, and issue was joined on the plaintiff's rejoinder that it was a common way, *absque hoc* that it was the defendant's several, 370-372.

The avowry was of a taking of chattels by bailiffs of a town (A.) for toll due for goods exposed for sale at the market which the town had by prescription, and which was afterwards granted to it by King John. It was pleaded that in the reign of Edward I., on a *Quo Warranto* before Justices in Eyre, the town had claimed certain franchises, including the market, by virtue of a charter of King John granting it all the franchises enjoyed by the burgesses of another town (B.), and that because the franchises of the town A. were not expressly mentioned in its own charter and it could not affirm any title of prescription, the Court had given judgment that they should be

REPLEVIN—cont.

seized into the King's hand, and therefore it was pleaded that they could not be claimed by title of prescription contrary to the tenour of the record. The replication was that, as the bailiffs of the town had not a day in Court for claiming or trying any franchises, and the plaintiff had not denied that they then had a market in the town, or that the taking of the chattels was for the cause alleged, they were entitled to judgment and a return of the chattels. The rejoinder was to the same effect as the plea. Judgment was given for the defendants for the reasons stated in their replication, 390-398.

The avowry was that the defendant had been appointed, as being dozener or tithing-man of a particular tithing, to levy a fifteenth, which had been granted to the King, from that tithing and from all persons who had been accustomed to contribute with that tithing, and that he had taken certain beasts because the plaintiff refused to pay. The plaintiff pleaded that neither he nor any other person whose estate he had was ever accustomed to pay any such tax with persons of that tithing. Issue was joined on the replication that he and all those whose estate he had had always been accustomed to give and contribute to such taxes with the men of that tithing for lands and tenements and for goods and chattels therein existing, as supposed in the avowry, 528-536.

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Where the limitation was to a husband and his wife and the husband's heirs, and there was issue A., who had issue B., and B. sued a *Scire facias* to have execution, the tenant pleaded that he was the assign of one C. who had been enfeoffed by A., and this was not denied. The Court gave judgment, notwithstanding the statute of Westm. 1, c. 45, that the demandant should take nothing by his writ, and the judgment was

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(To have execution of a judgment for the recovery of the value of issues of land on reversal, on a writ of False Judgment, of judgment given in a Court of Ancient Demesne.) The recovery had been on a writ of Dower, and the defendant in the *Scire facias* pleaded that she had in the same Court of Ancient Demesne recovered the land by a little writ of Right brought in the nature of a *Cui in vita* on a title earlier than the judgment to recover in Dower or its reversal. It was held that she was chargeable personally, as the execution prayed was not of the land, but of damages in lieu of the issues, and execution was awarded accordingly, 204-210.

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There were several defendants, one of whom (B.) pleaded Not Guilty in one term, and another (C.) in a subsequent term. The *Distingas juratores* with regard to B. was returned on one day, and the *Habeas corpora juratorum* with regard to C. on a later day in the same term, and an entry was made on the roll that the jury between A., plaintiff, and B. and C., defendants, was put in respite, *Nisi prius*, &c. At *Nisi prius* one jury was taken from the two panels and gave a verdict for the plaintiff. When he prayed judgment on the verdict, it was objected that there had been a discontinuance, and, though it was found that the names were the same in both panels, the Court adjourned to consider its judgment, 434-438.

Where the plaintiff alleged assault and battery, the defendants pleaded that they acted only in self-defense; and issue was joined on the plaintiff's replication that they committed the trespass *contra pacem, et ex injuria sua propria*, 500-502; 503, note 4.

Where it was alleged that corn had been tortiously cut and carried off, and the defendant justified on the ground that he had only assisted a third person, the freeholder, to cut the corn, it was argued on behalf of the plaintiff that such a plea did not

TRESPASS—cont.

lie in the defendant's mouth, but that the latter ought to have pleaded the general issue Not Guilty. In the end, however, the replication was that the defendant had cut the corn tortiously, as the plaintiff had made plaint, 570-572.

Where the action was brought against A. and his wife, B., and the alleged trespass was that of cutting and carrying off corn and hay, justification was pleaded on the ground that B., while sole, granted and demised to C. by indenture all her dower to which she was entitled out of the manor of D. and out of the demesne lands therein which C. had been accustomed to till, to hold until the full age of E. son and heir of B.'s first husband F., at a certain rent payable at certain terms, on condition that B. might enter upon the lands if the rent should be in arrear for a fortnight after the terms mentioned. C., being seised (*seisitus*), bequeathed (*legavit*) his estate to his brother G. by will, and G., being seised, demised his estate to the plaintiff, E. being all the time and still under age. The rent was in arrear for four of the terms mentioned and a fortnight after the last of them, and for that reason A. and B. entered, and cut the corn, &c., growing upon the land, in accordance with the indenture. The replication was that F. was seised of the whole of the manor, which he held of H. by knight service, and died seised, that H. entered by right of wardship (E. being under age), and afterwards demised the manor to C. to hold until E.'s full age, that C. bequeathed his estate in the manor to G. who demised his estate in the manor to the plaintiff, *absque hoc* that B. was seised of a third part of the land in which the trespass was committed, as dower separated

TRESPASS—*cont.*

from the other two parts, before the day of the lease. The rejoinder, upon which issue was joined, was that B. was seised of the third part of the land as dower, in which land the plaintiff supposed the trespass to have been committed, and granted it to C. by her deed, and C. became seised thereof by transmutation of possession in virtue of the deed, 572-582.

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This chronicle begins with the Creation, and is brought down to the reign of Edward III. The two English translations, which are printed with the original Latin, afford interesting illustrations of the gradual change of our language, for one was made in the fourteenth century, the other in the fifteenth.

42. **LE LIVRE DE REIS DE BRITTANIE E LE LIVRE DE REIS DE ENGLETERE**. *Edited by* the Rev. JOHN GLOVER, M.A., Vicar of Brading, Isle of Wight, formerly Librarian of Trinity College, Cambridge. 1865.

These two treatises are valuable as careful abstracts of previous histories.

43. **CHRONICA MONASTERII DE MELSA AB ANNO 1150 USQUE AD ANNUM 1406**, Vols. I.-III. *Edited by* EDWARD AUGUSTUS BOND, Assistant Keeper of Manuscripts, and Egerton Librarian, British Museum. 1866-1868.

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There is to be found, in the "Book of Hyde," much information relating to the reign of King Alfred which is not known to exist elsewhere. The volume contains some curious specimens of Anglo-Saxon and mediæval English.

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It is probable that Pierre de Langtoft was a canon of Bridlington, in Yorkshire and lived in the reign of Edward I., and during a portion of the reign of Edward II. This chronicle is divided into three parts; in the first, is an abridgement of Geoffrey of Monmouth's "*Historia Britonum*"; in the second, a history of the Anglo-Saxon and Norman kings, to the death of Henry III.; in the third, a history of the reign of Edward I. The language is a specimen of the French of Yorkshire.

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